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U.S. District Court
Middle District of TN

EXHIBIT

19

Contract Between TDOC and Trousdale County

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF CORRECTION
AND
TROUSDALE COUNTY**

This Contract, by and between the State of Tennessee, Department of Correction, hereinafter referred to as the "State" and Trousdale County, hereinafter referred to as the "Contractor," is for the provision of Operation of a Prison, as further defined in the "SCOPE OF SERVICES."

Contractor Edison Registration ID # 2537

A. SCOPE OF SERVICES:

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.

A.2. DEFINITIONS:

- a. "ACA" – means the American Correctional Association.
- b. "ACA Re-accreditation" means re-accreditation by ACA three (3) years after either the initial or a following re-accreditation.
- c. "ACA Standards" – means the standards for Adult Correctional Institutions, Fourth Edition, as the same may be modified, amended, or supplemented in the future) published by the ACA.
- d. "ADC" means Average Daily Census
- e. "AIDS" means Acquired Immunodeficiency Syndrome (AIDS) a chronic potentially life-threatening condition caused by HIV.
- f. "ALOS" means Average Length of Stay
- g. "APN" means Advanced Practice Nurse, a nurse that has education beyond the basic nursing education and certified by a nationally recognized professional organization in a nursing specialty, or meeting other criteria established by a Board of Nursing.
- h. "Ancillary Services" means those services described in TDOC Policy #113-80 as may be revised.
- i. "Assault" means hostile physical contact or attempted physical contact with a staff member, visitor or guest, including, but not limited to hitting, shoving, wrestling, kicking or similar behaviors or using any object as a weapon, including any liquid or solid substances thrown or otherwise projected on or at a person, regardless of whether contact is made.
- j. "Assumption of Control" means an instance where the State would be required to assume control of the Facility to maintain order.
- k. "Audit Instrument" means a document used by designated TDOC staff to measure, evaluate and document contractor performance and compliance with the terms of this contract.

- l. "Bed Day" – means each calendar day that a bed at the Facility is made available to the State pursuant to an allocation requested in writing by the State for the placement of an Inmate, including the first, but not the last day.
- m. "Central Transportation" means the State division which coordinates and transports Inmates between State and privately managed facilities, to court, hospital or other locations as determined necessary by State leadership.
- n. "CM" means Clinical Modification.
- o. "CNS" means a 'Certified Nurse Specialist. A CNS shall be a clinical nurse specialist who has: (1) completed a Bachelor of Science in Nursing (2), passed the National Council Licensure Examination for Registered Nurses; (3), completed a master's program, preferably Master of Science in Nursing; and (4), has been certified by the American Nurses Credentialing Center.
- p. "CNT" means a Certified Nursing Technician who is a nursing aide or a certified nursing assistant who works with elderly, disabled, and infirm patients to help them perform routine daily tasks, including basic medical tasks, such as taking and recording vital signs. Certified Nursing Technicians need to complete a short training program that combines classroom studies with hands-on clinical practice, and they must pass a State certification examination.
- q. "Chief Medical Officer" means a State staff physician charged with oversight of medical care for all inmates in State custody.
- r. "Chronic Care" means health care services that are provided to Inmates/patients for specifically identified illnesses that are ongoing or recurring.
- s. "Classification" means the TDOC programs used in all TDOC and privately managed facilities to provide for the making of custody assessments and to provide for the programmatic needs of the inmate as detailed in TDOC Policy Series 401.
- t. "CBT" means Cognitive Behavioral Therapy. CBT is the psycho-social intervention that is the most widely used evidence-based practice for improving mental health. CBT focuses on the development of personal coping strategies that target solving current problems and changing unhelpful patterns in cognitions (e.g. thoughts, beliefs, and attitudes), behaviors, and emotional regulation.
- u. "Commissary" means a store within a correctional facility, from which Inmates may purchase products such as hygiene items, snacks, writing instruments, etc.
- v. "Commissioner" means the Commissioner of the Tennessee Department of Correction.

- w. "CPAP" means Continuous Positive Airway Pressure. CPAP is a method of positive pressure ventilation used with patients who are breathing spontaneously, done to keep the alveoli open at the end of exhalation and thus increase oxygenation and reduce the work of breathing.
- x. "CQI" means Continuous Quality Improvement. CQI is a system that seeks to improve the provision of services with an emphasis on future results. CQI uses a set of statistical tools to understand subsystems and uncover problems, but its emphasis is on maintaining quality in the future, not just controlling a process.
- y. "CQI Committee" means the State committee whose mission is to promote wellness among offenders in State custody in a consistent manner throughout the State. The Committee also identifies opportunities for improvements which impact healthcare, and evaluates and recommends improvements for operational or clinical management.
- z. "CQI Coordinator" means the full-time nurse who develops and implements the CQI program. The State and the Contractor shall each have a designated CQI coordinator.
- aa. CQI Program means the program that is administered by the CQI coordinator.
- bb. Contractor means Troupdale County.
- cc. Contractor's "Clinical Director" means the physician appointed by the Contractor who shall provide clinical supervision and/or consultation to Facility Mental Health staff.
- dd. Contractor's "Medical Director" means a Physician appointed by the Contractor and who has been approved by the State and who is charged with oversight of medical care for all Inmates in the Facility.
- ee. "Controlled Substance" or "Controlled Medication" means a drug substance or immediate precursor included in Schedules I through V of the Controlled Substances Act, 84 Stat. 1242, 21 U.S.C. § 801-904.
- ff. "CoreCivic" means the entity formerly known as CCA, which subcontracts with Contractor for the operation of TTCC.
- gg. "Corrective Action" means an action or set of actions created and executed to correct a performance or contractual failure.
- hh. "Court Orders" means any orders, judgments or opinions issued by a court of competent jurisdiction or any stipulations, agreements or plans entered into in connection with

litigation that are applicable to and binding upon the operation, management or maintenance of the Facility or relate to the care and custody of Inmates of the Facility, whether currently existing or as may be rendered in the future.

- ii. "CICF" means Criminal Injuries Compensation Fund, which is the fund administered by the Tennessee Department of Treasury which provides financial assistance to crime victims.
- jj. "DSNF" means the Lois M. DeBerry Special Needs Facility.
- kk. "Dental Services" means those services described in TDOC Policy #113.60 as may be revised.
- ll. "DSM" means the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, defines and classifies mental disorders.
- mm. "Director of Behavioral Health Services" means the State employee charged with oversight of the behavioral health care of inmates and offenders in State custody.
- nn. "Disciplinary Action" means actions taken by Contractor or State staff against an Inmate in response to an Inmate rule infraction.
- oo. "Disturbance" means actions taken by Inmates to disrupt routine facility operation.
- pp. "DME" means Durable Medical Equipment. DME are devices prescribed by a qualified health professional to help minimize the effects of a debilitating condition, including but not limited to wheelchairs, crutches, canes, CPAP machines and portable oxygen tanks.
- qq. "Effective Date of Contract" - the date stated in **Section B.**, of this Contract.
- rr. "Emergency Assumption of Control" means an occurrence where the State would assume control and operation of the Facility.
- ss. "ER means Emergency Room.
- tt. "Enteral Nutrition" means nutrition provided through a tube placed in the nose, stomach or small intestine.
- uu. "Escape" means the clear apparent effort of one (1) Inmate to flee or abscond from the confines of the institution, its properties, authorized work locations, and/or the supervision of employees to whom the Inmate is officially assigned.
- vv. "Evidence-Based Programs" means programs already proven successful in lowering the rates of offenders returning to incarceration.

- ww. "Facility" means the correctional institution, located in Trousdale County, Tennessee, and real property as specified in Appendix One.
- xx. "Fiscal Year" means the period beginning July 1 and ending June 30 of each year.
- yy. "Formulary" means a list of medications approved by the State's Chief Medical Officer for use in treating Inmate patients.
- zz. "Full-Time Equivalent" (FTE) means a unit of measure equal to the number of hours that one full time employee would be scheduled to work. The measure is used to translate the total number of hours worked by all employees in a business unit, into an equivalent number of full-time employees that would be needed to cover that number of hours.
- aaa. "Health Services Contractor" means the State's contract provider of primary and specialty care physician and dental services, non-physician professional services, hospital services, and, at certain institutions, health services staffing.
- bbb. "Hepatitis" means inflammation of the liver caused by a viral infection, an alcohol use disorder, or an autoimmune condition, and collectively meaning the Hepatitis A, Hepatitis B, and Hepatitis C viruses.
- ccc. HAV means the Hepatitis A Vaccine created to prevent the infectious disease caused by the Hepatitis A virus which affects the liver.
- ddd. HBV means the Hepatitis B Vaccine created to prevent the infectious disease caused by the Hepatitis B virus which affects the liver.
- eee. HCV means the Hepatitis C Vaccine created to prevent the infectious disease caused by the hepatitis C virus which primarily affects the liver.
- fff. "HIV" means the Human Immunodeficiency Virus.
- ggg. "HVAC" means the system controlling facility heating, ventilating and air conditioning.
- hhh. "Incident" means an occurrence of an Inmate rule infraction as detailed in TDOC Policy #103.02 as may be revised.
- iii. "Indigent Inmates" - means inmates who are deemed indigent as defined by TDOC Policy #112.08, as said policy may be amended.
- jjj. "Industry Program" means a program operated by TRICOR under contract with private industry using State inmate labor.
- kkk. "Infectious Disease Committee" means the State committee headed by the Chief Medical Officer or designee, charged with establishing an effective infectious disease management program meeting the needs of Inmates with HIV/AIDS, TB, MRSA, Hepatitis or other infectious diseases.
- lll. "Infirmary" means the provision of infirmary care as defined in TDOC policies #113.02 and #113.32, as said policies may be revised.
- mmm. "Influenza" means a viral infection which attacks the human respiratory system – the nose, throat and lungs. Different strains of influenza may occur during any flu season.

- nnn. "Inmate" means any adult male committed to the custody and control of the State who is incarcerated in the Facility.
- ooo. "Inmate Day" means each calendar day or part thereof that an Inmate is located at the Facility, including the first, but not the last day of incarceration at the Facility.
- ppp. "Inmate Discipline" means punitive action or actions taken by State or Contractor staff in response to an Inmate rule infraction.
- qqq. "Inmate Drug Testing" means an alcohol or drug-screening test to determine the presence of alcohol or drugs or their metabolites in a specimen(s).
- rrr. "Inmate Grievance" means a written complaint concerning the substance or application of a written or unwritten policy or practice, any single behavior or action towards an Inmate by staff or other Inmates, or any condition or incident within the state or institution which personally affects the Inmate complainant.
- sss. "Inmate Library" means library facilities provided to Inmates in keeping with ACA Standards and TDOC Policy #509.01 as may be revised.
- ttt. "Inmate Rule Infraction" means the commission of a disciplinary offence by an Inmate which results in a punishment being imposed upon the Inmate.
- uuu. "Inmate Telephone System" means the third-party vendor-operated system comprising of wiring, infrastructure and software which allows inmates to make and receive telephone calls, receive video visitation and other related services.
- vvv. "Inmate Trust Fund System" means the system maintained by the Contractor following State procedures including those relating to withdrawals for payment of court costs, privilege taxes, and Criminal Injuries Compensation Fund (CICF) requirements, as well as other applicable fees and deductions.
- www. "Inpatient Hospital Costs" means any expenses incurred as a result of an Inmate's admission to an inpatient medical care facility, and expenses incurred as a result of out-patient treatment for emergency medical services.
- xxx. "IPPO" or "Institutional Probation and Parole Officer" means a State employee located at the Facility tasked with preparing Inmates for probation/parole hearings.
- yyy. "Intramuscular Therapy" means an invasive procedure in which a solid filament needle is inserted into the skin and muscle at a trigger point involved in the production and maintenance of the pain cycle.
- zzz. "IV" or Intravenous means drug therapies administered inside a patient's vein.
- aaaa. "JCAHO" means Joint Commission on Accreditation of Healthcare Organizations, which is an independent, not-for-profit organization which accredits and certifies nearly 21,000 health care organizations and programs in the United States.
- bbbb. "Liaison" means a person or persons appointed and paid by the State to monitor for the State the implementation of this Contract and/or to act as the Commissioner's designee. The Liaison shall also be the official liaison between the State and the Contractor on matters pertaining to the operation and management services of the

Facility and may perform other functions described herein and described in State policies as may be revised or otherwise provided by the Commissioner in writing.

- cccc. "LCSW" means licensed clinical social worker.
- dddd. "LPN" means licensed practical nurse.
- eeee. "Local Area" means Trousdale County, the contiguous counties of Macon, Sumner, Wilson, Smith and Jackson and the counties of Davidson, Williamson and Rutherford in Tennessee.
- ffff. "Mental Health Nurse" means the appointed position of a Contractor's nurse that specializes in mental health.
- gggg. "Mid-Level Provider" means a clinical professional with advanced practice training that legally authorizes him/her to treat patients and prescribe medication under protocols developed by his/her supervising Physician. Mid-Level Providers may include (but are not limited to) a Physician's Assistant (PA), an Advanced Practice Nurse (APN) with a master's level degree or doctorate, and a certificate of fitness in their field of expertise. These providers are licensed through the State of Tennessee.
- hhhh. "Minimum Restricted" means one (1) of six (6) categories of custody as outlined in TDOC Policy # 506.01 as may be revised.
- iiii. "MRSA" means methicillin-resistant *Staphylococcus aureus*, a type of staphylococcus bacterium resistant to many antibiotics.
- jjjj. "NFPA" means the National Fire Protection Association.
- kkkk. "OMS" means TDOC's Offender Management System.
- llll. "Optometry" means the health care profession involved in examining the eyes and applicable visual systems for defects and abnormalities and the medical diagnosis and management of eye disease.
- mmmm. "Ostomy" means a surgery to create an opening from an area inside the body to the outside to treat certain diseases of the digestive or urinary systems.
- nnnn. "Peer Review Committee" means the committee overseen by the Chief Medical Officer responsible for the review of credentials and clinical performance of Physicians, including psychiatrists, and dentists.
- oooo. "Peer Review Program" means the program wherein the credentials and clinical performance of Physicians including psychiatrists and dentists.
- pppp. "Per Diem Rate" means cost per Inmate, per Inmate Day.

qqqq. "Pharmaceutical" means relating to medicinal drugs, relating to their preparation, use or sale; or a compound manufactured for use as a medical drug.

rrrr. "P & T Committee" means TDOC's Pharmacy and Therapeutics the subcommittee of the TDOC's State's statewide CQI Committee. The P&T Committee consists of teams of experienced clinicians and administrators, and meets on a regular basis to review, evaluate and make recommendations to improve all services. The duties of the P&T Committee include determining and maintaining a list of over-the-counter medications approved for availability in facility commissaries, formulary development, and determinations of which medications with the potential for abuse and prescribing limits for such substances.

ssss. "Physician" means an individual that completes the requirements and has earned a medical doctor degree (MD) from an allopathic school of medicine or a Doctor of Osteopathic Medicine from an osteopathic school of medicine or a foreign medical graduate equivalent licensed by Tennessee Department of Health to practice medicine in the State of Tennessee.

tttt. "PA" means Physician's Assistant (PA).

uuuu. "Pneumococcal Vaccine" means a vaccine administered to protect against pneumonia.

vvvv. "Policy" means a set of decisions, policies and practices pertaining to the internal operation or actions of an agency, as may be revised from time to time, and as provided at Tenn. Code Annotated §4-5-102.

www. "Policy Audit" means an audit conducted by State staff to monitor Contractor compliance with TDOC Policies as specified in this Contract.

xxxx. "Post Assignment" means the assignment of a particular member of Contractor staff to a security position at the Facility.

yyyy. "Post Order" means standing orders which delineate the task and job duties of each security position at the Facility.

zzzz. "Primary Health Care Contractor" means the State's contract provider of primary and specialty care physician and dental services, non-physician professional services, hospital services, and at certain institutions, health services staffing.

aaaa. "PREA" means the Prison Rape Elimination Act of 2003, Pub. L. 108-79, 117 Stat. 972.

bbbb. "Prosthetic" means a device which can be attached to a human limb such as an arm or leg to assist with mobility or self-care.

cccc. "PE" means Psychological Examiner.

dddd. "Psychotropic Medication" means a drug which exercises a direct effect upon the brain and central nervous system, and which is capable of modifying behavior and mental status.

- eeeeee. "Recreation" means the comprehensive program supervised by a qualified person which includes outdoor and leisure time programs for the inmate population.
- fffff. "Reentry Plan" means a plan developed jointly by an Inmate and an IPPO outlining where an offender will live, work, receive programming/treatment and perform other duties of living once released from incarceration.
- ggggg. "Reentry Services" means services specifically related to the offender's transition back into the community, such as identification, offender programming, veteran's benefits, transportation, disability benefits, mental health, medical, connection with community resources, etc.
- hhhhh. "Rehabilitative Services" means the services provided by Contractor staff including but not limited to counseling, pre-release and transitional services provided to prepare an Inmate for release from incarceration and return to the community.
- iiii. "Religious Activity" or "Religious Services" means any activity or program conducted by or under the supervision of the chaplain or under the supervision of trained staff or approved volunteers. This activity is specifically designed for worship, religious education, spiritual guidance, counseling or other religious service.
- jjjjj. "Restrictive Housing" means the correctional practice of housing some inmates separately from the institution's general population and imposing restrictions on the inmate's movements, behavior and privileges in accordance with TDOC Policy #507.03 as may be revised.
- kkkkk. "RN" means Registered Nurse.
- lllll. "Riot" means a serious Inmate Disturbance leading to a disruption of Facility order that may require the lock-down of the facility to prevent the injury or death of Inmates or facility staff.
- mmmmm. "Secured Perimeter" means the outermost secure boundary of a prison facility designated to keep Inmates from leaving the property and to prohibit unwarranted entry of contraband.
- nnnnn. "Sentence Computation" means the calculation of an Inmate's date of release from prison considering the original offense, applicable sentence credits and other mitigating factors.
- ooooo. "Sentence Credits" means Inmate accomplishments such as good behavior, program participation, and successful completion of a general equivalency diploma, two (2) or four (4) year college degree which contribute to the reduction of an Inmate sentence.
- ppppp. "Service Commencement Date" means July 1, 2021.
- qqqqq. "Service" means the provision of all activities required for the operation and management of the Facility as detailed herein.
- rrrrr. "Sex Offender" means a person convicted at any time of a sexual offense in Tennessee or convicted at any time of an offense in another State, that if committed in Tennessee, would be a sexual offense.

sssss. "Shift Reports" means reports outlining Inmate and correctional staff activity of note taking place during a facility shift.

ttttt. "Sick Call" means an organized method by which Inmates are evaluated and treated for non-emergency health care requests by qualified health care professionals.

uuuuu. "SPE" means senior psychological examiner.

vvvvv. "Special and Restrictive Housing" means inmate housing within State facilities based on medical needs and levels of care or inmates under a sentence of death placed in single-cells and housed in a maximum security administrative segregation unit separated from the general facility population in accordance with ACA Standards.

wwwww. "Staffing Pattern" means a listing of each functional area by position, with an indication of shift assignment and number of days covered, relief factors and total staffing.

xxxxx. Standards means the laws, TDOC policies, ACA standards, plans or manuals the Contractor must comply with in performing its duties pursuant to Section A.3.c.10.A. of the Contract.

yyyyy. "State Bed Days" means the State's total allocation of Bed Days.

zzzzz. "State Director of Nursing" means a State position responsible for oversight of State and Contractor nursing staff.

aaaaa. "Subcutaneous Therapy" means the establishment of temporary access under the skin for repeated/intermittent medication doses and/or continuous infusion of medication under the skin.

bbbbb. "Supportive Living Unit" means a housing unit for Inmates under behavioral healthcare, as defined in TDOC Policy #113.80 as may be revised.

ccccc. "TC" means therapeutic community.

ddddd. "TDOC" means the Tennessee Department of Correction

eeeee. "Tele-Health" or "Telemedicine" means the use of telecommunication equipment for the purpose of presenting Inmates for evaluation, diagnosis and treatment of medical/mental health conditions.

fffff. "Tetanus Vaccine" or "Tetanus Vaccination" means one (1) of four (4) kinds of vaccines used to protect against tetanus.

ggggg. "TOSHA" means the Tennessee Occupational Safety and Health Administration.

hhhhh. "TRICOR" means the Tennessee Rehabilitative Initiative in Correction.

iiiiii. "Use of Deadly Force" means the use of a degree of force that can reasonably be expected to cause death or serious bodily injury.

- jjjjj. "Use of Force" means actions used against an offender/Inmate to compel him or her to do something against his or her will to compel compliance with order.
- kkkkkk. "Utilization Management Process" means a process approved in writing by the State in which the Contractor details how health care costs will be managed through case-by-case assessments of the appropriateness of care prior to its provision.
- jjjjjj. "Validated Risk-Needs Assessment", "VRNA" or "STRONG-R", means the instrument customized for the State which measures an offender's risk and likelihood to reoffend as well as treatment and programming useful in reducing such risks.
- kkkkkkk. "Visitation" means the Inmate privilege of receiving visitors at the Facility as part of the overall rehabilitation process. Visitors must complete an application/approval process for permission to visit an Inmate.
- lllllll. "Volunteer Services Program" means Department or Facility oversight of individuals not paid by State or the Contractor who have successfully completed the volunteer application and certification process for eligibility to volunteer in any State or Contractor managed institution.
- mmmmmmm. "Warden" means the executive officer at a State or privately-managed State prison facility in general, and more specifically, in this Contract at the TTCC.

A.3. DESCRIPTION OF SERVICES

a. MAINTENANCE

1. Maintenance

Contractor shall implement a plan, including a preventive maintenance program, to maintain the Facility and all property contained therein.

Contractor shall provide for maintenance, repair, and replacement for the Facility and shall keep said Facility in good repair, working order and condition, subject to normal wear and tear. Contractor shall be responsible for all expenses incurred in said maintenance, repair and replacement.

2. Utilities and Taxes

Contractor shall pay all taxes associated with this Contract and utility costs of the Facility, including, but not limited to, water, gas, sewage and electric.

3. Property Insurance

Contractor shall obtain and keep in force casualty insurance on the Facility and on all property to be located at the Facility.

4. Telecommunications

- 1) Contractor shall provide, at its expense, all necessary telecommunications equipment.
- 2) The Contractor may make additions to or rearrange features of the telephone system as it deems necessary, subject to written approval by the state. The

Contractor must assure the quality of the workmanship and added components are of equal or greater quality to maintain system integrity.

- 3) All costs incurred in connection with telephone operations, including additions, labor, maintenance, repair, moves and changes, local and long-distance service, and training shall be paid directly by the Contractor. The Inmate Telephone System (which is operated under a separate contract) shall operate as in the State's other correctional facilities.
- 4) Contractor shall enter all required data on the Offender Management System.

b. DESTRUCTION OF FACILITY

1. In the event the Facility is destroyed in part or for any reason, then the Contractor remains obligated to fulfill its obligations under this contract to the extent such is possible in the portion of the Facility that remains operational. The Contractor recognizes that the inability to perform its obligations due to the destruction may result in the State seeking a compensation adjustment pursuant to C.10.
2. In the event the Facility is destroyed such that the physical damage prevents the housing and programming of the appropriate number of Inmates as determined by the Commissioner in his or her sole judgement, then the State may terminate this Contract without penalty either immediately or within stages upon written notice to the Contractor.

c. CONTRACT MONITORING

1. Monitoring

- a. The State has the right and authority under this Contract to monitor Contractor's performance hereunder. Such monitoring shall include but not be limited to observing and reporting on the day-to-day operational performance of Contractor regarding compliance with all terms and conditions of this Contract. Such monitoring or failure to monitor shall not relieve Contractor of its responsibility, obligation and liability under this Contract.

The State, shall develop reporting requirements for Contractor that shall include but not be limited to weekly, monthly, and/or quarterly reports on the following subjects: Inmate jobs and education, incident reports, Disciplinary Action Reports, Inmate Grievances, staff turnover and vacancies, staff training, employee grievances, employee discipline, health care access, reclassifications, transfers, furloughs, releases, media contacts, lawsuits, volunteers, drug audits, cell searches, visitation, and maintenance. Also, an emergency reporting process shall be established that shall address, at a minimum, segregation of Inmates, Use of Force, and Incidents which involve substantial risk to property, life, or institutional security.

Contractor shall cooperate with the State, including any representatives of the State, in the Contract monitoring effort of the State through such means as may be requested from time to time, including, but not limited to the reporting of information as requested. The State and Contractor agree that the information collecting and monitoring processes described in this Section A.3.c. shall be defined in the TDOC policies and procedures as may be revised.

- b. In addition to conducting contract monitoring in accordance with this section, the State shall utilize the performance-based outcome measures and performance descriptions set out in Appendix G to evaluate the Contractor's performance for the purpose of determining the value added credit, if any, the Contractor may receive pursuant to E.10.c. Value added credit earned in a contract year shall be available only to offset liquidated damages, if any, assessed for breach events pursuant to E.10. b. which occur that same contract year. Unapplied value added credit shall not carry over to subsequent contract years. The State shall give notice to the Contractor of the results of the performance-based outcome measures on or before the thirtieth (30th) day following the end of each contract year during the term.

2. Liaison

- a. The State shall provide a Liaison or Liaisons to be located at the Facility. The Liaison or Liaisons will be an employee by the State and will be paid by the State. The Contractor, however, shall reimburse the State for the cost incurred by the State, including salary and benefits, for up to two full-time on-site Liaisons. Contractor shall have no control over the activities of the Liaison(s), supervisory or otherwise.
- b. The Liaison(s) shall be the representative of the State at the Facility to monitor Contractor's compliance with the Contract. The Commissioner may also appoint the Liaison to act as his designee. The Liaison may also have functions described in State policies. The Liaison may have other functions as provided by the Commissioner in writing.
- c. Unless otherwise specified by the Commissioner, in writing, the Liaison(s) shall be the designated recipient of all information required of Contractor. Contractor shall be notified of the identity of any Contract Liaison, in writing, signed by the Commissioner.
- d. The individual(s) acting as Liaison(s) may be changed during the term of the Contract, at the discretion of the Commissioner.
- e. The State hereby expressly disclaims that the Liaison or any other state employee or official has any authority, apparent or otherwise, to bind the State under this Contract unless expressly stated herein; provided, however, that the Liaison shall have the same authority granted any state employee under this Contract and the Commissioner retains authority over the Inmates which may not be delegated at law.
- f. In addition to the Liaison(s) employed by the State, the State may monitor the Contract through other representatives of State as it deems appropriate. Such representative(s) shall have the same right of access to information, the Facility, Inmates, and Contractor's employees and agents as set out herein for Liaison(s).

3. Multiple Liaisons

- a. In the event that the Commissioner designates more than one (1) individual to act as Liaison, the State shall provide Contractor with a description of the Liaisons' levels of authority in writing executed by the Commissioner.
- b. In the event Contractor believes it is receiving conflicting instructions from the Liaison(s) or that the Liaison is acting beyond its level of authority under subsection A.3.c.3.a. or as provided in this Contract, Trowsdale County shall notify the Commissioner in writing. The written response of the Commissioner shall be final.

4. **Office Space**

- a. Contractor shall provide, at its expense, adequate office space and local telephone service for the Liaison(s) and the staff of the Liaison(s), which may include support staff, in close proximity to other administrative offices.
- b. Contractor also shall provide the Liaison and support staff with access to all major office equipment, at Contractor's expense.
- c. Contractor shall not provide the Liaison(s) or Liaison's staff with gifts or any form of compensation at any time.

5. **Liaison Access**

- a. The Liaison(s) shall have immediate, complete, and unrestricted access to all parts of the Facility at any and all times.
- b. The Liaison(s) shall have immediate, complete, and unrestricted access to all documents in any way pertaining to the obligations of Contractor under this Contract, including but not limited to Facility records, Inmate files, personnel files, and financial records. In the event that any such document is not located on the facility site, upon request Contractor agrees to provide the Liaison with a copy of the document within seventy-two (72) hours of the request.
- c. The Liaison(s) shall have immediate, complete, and unrestricted access to all meetings and hearings which in any way pertain to the obligations of Contractor under this Contract. Contractor shall notify the Liaison of the time, place, and agenda at least twenty-four (24) hours in advance of any such meeting or hearing, unless it is not reasonable to provide said notice in which case the Liaison shall be notified simultaneously with the other participants; provided, however, the Liaison may not have access to meetings between Facility staff and legal counsel retained by Contractor unless permitted by Contractor.
- d. The Liaison(s) shall have immediate, complete and unrestricted access to all Inmates and access at a reasonable time and place to all employees of Contractor, including, but not limited to, the Warden.

6. **Meetings with Liaison**

Upon request of the Liaison(s), the Warden shall meet with the Liaison(s) to report on/discuss the operations of the Facility and to respond to any questions raised by the Liaison(s).

7. **Requests for Information**

- a. Contractor shall provide the Liaison(s) with written responses to any information requested by the Liaison(s) or Commissioner concerning any aspect of Contractor's performance under the Contract within the period prescribed in the Liaison's request. Contractor shall certify that said information is accurate and if Contractor is unable to so certify then Contractor shall state the reason therefor.

- b. Upon written request by the Liaison(s) or Commissioner, Contractor shall compile information in the requested form and provide documentation substantiating said information.
- c. Contractor shall not destroy any document related in any way to its performance under the Contract without the prior written consent of the Liaison.
- d. Contractor shall provide the Liaison upon request with a copy of, or opportunity to review, all documents generated by Contractor in the performance of this contract. The Liaison(s) shall notify Contractor in writing of the requested documents.

8. **State Inspection**

The Commissioner or his/her designee(s) shall have the same access as described in Section A.3.c.5, Liaison Access, which access shall include but not be limited to persons designated by the Commissioner to inspect and/or audit the Facility and/or Contractor's performance under this Contract. Contractor is also shall provide appropriate access to authorized inspection and regulatory agencies. Contractor shall exercise due diligence for the safety and welfare of the Liaison(s), any other State employee, and any visitor at the Facility.

9. **Incident Reports**

Contractor shall implement TDOC Policy #103 as same may be revised, regarding the reporting of incidents.

10. **Operation of Facility**

A. **Obligations of Contractor.** Contractor shall perform all acts and services and comply with all duties and promises as described and in conformance with the following, which are incorporated herein by reference and made a part of this Contract:

- 1. All applicable federal, state and local laws, court decisions, and Court Orders and consent agreements, whether currently existing or as may be enacted or rendered in the future;
- 2. All TDOC policies specified in Appendix C, as same may be revised in writing by the State during the term of this contract, or in the discretion of the Commissioner, policies submitted by Contractor and approved by the State which may not be identical to TDOC Policies. Any revision in applicable TDOC policy will be sent to Jason.medlin@corecivic.com; Charles.keeton@corecivic.com and the Contractor at the email address provided in Section E.2;
- 3. Such other policies as the State may make applicable to Contractor in writing during the term of this Contract as same may be revised during the term of this Contract. TDOC shall provide Contractor notice of such other policies at the email address provided in Section E.2;
- 4. ACA Standards as detailed in the Performance-Based Expected Practices for Adult Correctional Institutions Manual, Fifth Edition or as may be amended or updated in the future;

5. The terms of this Document; and
6. The terms of any plans or manuals approved by the State pursuant to this contract.

The standards articulated in (1) through (6) hereinafter collectively shall be referred to as "Standards."

B. **Obligations of the State.** The State agrees to perform its obligations as described herein.

C. **Conflicts.**

1. In the event of an irreconcilable conflict among the Standards, Contractor shall follow the Standard as determined by the Liaison(s).
2. In the event of disagreement between Contractor and the Liaison(s) regarding which item provides the standard of service, the Commissioner or his designee shall make the final decision.
3. Approval by the State of any policy or procedure submitted by Contractor which deviates from the Standards shall not relieve Contractor from the obligation to follow the Standards unless explicitly stated in the approval.

D. **Policy and Procedures Manual and Operations Plan.** Contractor, no later than fifteen (15) days prior to the Service Commencement Date and annually thereafter, Contractor shall provide the State with one (1) hard copy and one (1) electronic copy (in Word if possible) of a written Policy and Procedures Manual which shall contain policies and procedures for all services to be rendered by Contractor in accordance with the Standards for approval by the State. On the Service Commencement Date, Contractor shall also submit an Operations Plan relating to all areas covered by the contract, subject to the written approval of the State, including but not limited to a staffing pattern, security and post assignments, post orders for all security positions by post and shift, and designation of critical posts. Said manual and plan shall establish the policies and procedures Contractor shall follow in all areas covered by this Contract including the areas covered by TDOC Policies, as may be revised. Said manual and plan shall not be altered, amended, modified, revised or supplemented without the prior written approval by the State. Contractor shall perform all contractually required duties in keeping with said manual and plan throughout the term of the Contract. The State may require Contractor to revise said manual or plan, including policies, procedures, post orders, job descriptions, staffing patterns, shift rosters, etc., as required. Any change in the scope of services as a result of the State's requirement to revise the manual or plan shall be compensated by an adjustment in accordance with Section C.10.

E. **Assignment and Transfer of Inmates.**

1. Inmates will be assigned to the Facility in accordance with TDOC policies as may be revised. Contractor shall not refuse to accept any Inmates assigned to the Facility; but if Contractor believes that an Inmate has been erroneously assigned to the Facility that meet the security levels and assignment parameters outlined in TDOC Policy 506.01, it may request his transfer in writing, through the Liaison, citing the appropriate sections of TDOC

policy as may be revised. Any State decision on such requests shall be final.

2. Contractor's requests for reassignment of Inmates from the Facility to another institution for medical, psychiatric, disciplinary or administrative reasons or for Inmate furloughs will be made in writing through the Liaison(s) and evaluated by the State. Any decision by the State on such requests shall be final.
3. The State may transfer Inmates from the Facility with said decision to transfer being within the State's sole discretion.

F. **Safety and Emergency Procedures.**

1. Contractor, no later than fifteen (15) days prior to the Service Commencement Date, shall develop and submit one (1) hard copy and one electronic version (in Word if possible) of the following:
 - (1) Written Riot and Disturbance control and contingency plans, and
 - (2) disaster preparedness plans to the State. Plans shall be re-submitted annually after the initial submission. Contractor shall cooperate with the State in preparing contingent Inmate relocation plans.
2. At a minimum, Contractor shall in no less than 20 days prior to the Service Commencement Date, develop and submit to the State, written guidelines for the prevention of fire, safety inspections, maintenance of fire alarm and smoke detection systems, fire evacuation drills, evacuation plans, a procedure to report Inmate job-related injuries, and provisions for testing and maintenance of equipment to maintain essential lighting, power and communications. All such procedures shall comply with National Fire Protection Association (NFPA) life safety codes that are applicable as determined by the State Fire Marshal, Tennessee Occupational Safety and Health Association (TOSHA) Standards and Rules, and TDOC Policies #112.03, #112.04, #112.05, and #112.09 as may be revised.
3. Contractor shall develop and submit to the State one (1) hard copy and one (1) electronic version (in Word if possible) of plans for the search and apprehension of any escaped Inmate no later than fifteen (15) days prior to the Service Commencement Date. Said plans shall address Contractor searching for any escapee off the grounds of the Facility and coordination with local and State authorities. Contractor shall implement said plans regarding any search off the grounds of the Facility only if so requested by the Commissioner.
4. During the term of this Contract, Contractor shall develop and submit to the State in writing any other emergency and control plans as may be requested in writing by the State within thirty (30) days of receipt of said request, or in the event circumstances require a more immediate response, within such shorter time as specified in the request.

5. All plans required under this Section must be submitted to the State and approved by the State in writing. Contractor agrees to make any revisions, deletions or additions requested by the Commissioner or his or her designee. Upon written approval by the State, Contractor shall begin immediate implementation of the plans or in the case of contingency plans, certify that Contractor has the ability and shall implement the plan if the contingency occurs. Said plans may not be revised, amended, altered, or supplemented without prior written consent of the State.
6. All plans must be approved in advance in writing by the Commissioner or designee and must be in conformance with all applicable TOSHA/NFPA and life safety codes, and in conformance with the Standards.

G. **Medical and Mental Health Services.**

1. Contractor shall provide, all physical health services, mental health services and dental services as specified in this Section and in the Standards. Contractor shall utilize the State's medical records forms and mental health services forms, as said forms may be revised or supplemented during the term of this Contract. All medical services provided must be deemed medically necessary and all non-routine medical services must be approved through the Utilization Management Process.
 - a. Physician Coverage. Contractor shall provide on-site Physician coverage as specified in the approved institutional staffing plans and provide supervision of Mid-Level Providers and consultation to nursing staff. Physician coverage shall include primary care services for Inmates in mental health units. Contractor shall provide an on-call Physician or to ensure twenty-four (24) hour, seven (7) days per week emergency coverage with telephone response being required within thirty (30) minutes of a notification call from the Facility. An emergency phone call shall be defined as a call referring to an acute injury or illness that poses an immediate risk to a person's life or long term health. This shall include reporting any critical laboratory data and critical imaging results. Contractor's Physician is responsible and is the Physician of record for all Inmates and retains that responsibility until the Inmate care is officially transferred to another licensed clinician, until the Inmate is released from the Facility, or until the Inmate is transferred to another TDOC facility. When contacted on call, Contractor's Physician or Dentist shall determine whether his/her presence is required on-site at the Facility, and give written or verbal orders and a treatment plan to nursing staff. Physicians will be on call after hours to provide guidance to nursing staff for treatment of medical problems or injuries requiring sutures and minor surgical Procedures as required on a twenty-four (24) hour basis.
 - b. Nursing Coverage. The Contractor shall provide on-site twenty-four (24) hours per day/ seven (7) days/ week (24/7) nursing coverage as specified in the approved institutional staffing plans. Nursing shall include any required RN, LPN, and CNT staffing of medical and mental health units. At a minimum one (1) RN shall be required per shift to supervise LPNs and other ancillary staff as required by the Tennessee Board of Nursing.

- 2) Nursing Protocols. Any proposed changes to TDOC nursing protocols or variance requests shall require prior written approval by the State Director of Nursing or designee.
- a) Medication Administration. In accordance with the Contractor's staffing responsibilities, the Contractor's nurses shall administer, within the scope of their nursing license, all controlled and Psychotropic Medications to Inmates and any other medications ordered as directed by the P & T Committee and the Office of the Chief Medical Officer.
- b) Contractor shall comply with TDOC Policy #113.70 as may be revised, Management of Pharmaceuticals, which requires accountability of Controlled Substances consisting of medication reconciliation at the change of each shift with signature of outgoing and incoming clinical staff.
- c) Prosthetics and Durable Medical Equipment. The Contractor shall be responsible for all Prosthetics and Durable Medical Equipment ordered by its Physicians and specialists, including braces, special shoes, glasses, hearing aids, orthopedic devices, etc. Health care Prosthetic devices and Durable Medical Equipment shall be provided for Inmates when deemed necessary by the attending health care provider to correct, assist, or improve a significant body impairment or debilitating condition, in accordance with TDOC Policy as may be revised.
- d) Mid-level Supervision. The Contractor's Physician staff shall supervise all Mid-Level Providers in accordance with the Tennessee Health Related Boards Rules and Regulations. The Contractor's Physician shall document Mid-Level Provider supervision in the medical chart as required by Tennessee Board of Nursing and in accordance with TDOC Policies.
- 3) The Facility shall operate as a Mental Health Level II facility as defined in TDOC Policy #113.87 as may be revised. These services shall meet the Standards, and shall be monitored pursuant to Section A.3.c.
- 4) The Contractor shall ensure that all physical, mental, and dental health care is provided by appropriately licensed and/or qualified health care professionals. Candidates for the Contractor's Medical Director position shall be forwarded for review by the State Chief Medical Officer.
- 5) The physical health, mental health, and dental services delivery shall include but not be limited to the following:
- a) 24 hours-a-day, 7 days-a-week on-call emergency medical health and mental health care;
 - b) initial health screening;
 - c) intake history and physical examination
 - d) health appraisal examination;
 - e) daily triaging of complaints;
 - f) Sick Call. The Contractor's staff shall conduct Sick Call in accordance with TDOC Policy #113.31. as may be revised. Sick Call requests shall be triaged by an appropriately licensed health professional to include Mid-Level Providers, RNs, and LPNs when supervised by an

onsite RN. Inmates will be referred for medical follow-up as needed.

The Facility shall develop a plan for nursing Sick Call for Special and Restrictive Housing Inmates in accordance with TDOC Policy #113.31. Subject to the availability of space, Sick Call shall be held in special clinic rooms for Special and Restrictive Housing Inmates whenever medically possible to reduce risks associated with transporting Special and Restrictive Housing Inmates to the main clinic areas.

A Physician shall be on site at the Facility and available to see Sick Call referrals a minimum of three and one-half (3.5) hours per week per one hundred (100) Inmates. The Facility may also utilize Mid-Level Providers in addition to required Physician contract hours. The Facility may submit a written request to the Chief Medical Officer for approval of additional utilization of Mid-Level Providers.

A Physician shall be on site at the Facility with a Physician's Assistant or Nurse Practitioner a minimum of three day each week or as appropriate to fulfill provider staffing ratio. On-call hours may not substitute for the above minimum levels of care. Mid-level Providers may not be used in place of a Physician to meet the three day on-site each week requirement.

Sick Call and clinic visits shall not be deemed complete until all Inmates who are scheduled for that day's clinics have been examined or treated or signed a refusal.

- g) Infirmary operation with at least supervision by an RN twenty-four (24) hours per day, seven (7) days per week;
- h) Use of the State health and programmatic records using TDOC health forms;
- i) Specialty care and/or mental health programs and services for, but not limited to, Inmates with chronic diseases, terminal illnesses or requiring convalescent care;
- j) Psychology services (routine), psychiatry services (routine), sheltered living (ancillary), and substance abuse services;
- k) Specialty Physician care: the State may, in its sole discretion, allow the Contractor to use the health services at the DSNF, provided, however, that the Contractor shall enter into an agreement for usage and payment for said services with either the State or the Health Services Contractor if DSNF transitions to a comprehensive site with Inmate health services provided by the State's Health Services Contractor.

- l) Ancillary services - radiology, laboratory, etc.;
 - m) Dental services - routine to include dentures;
 - n) Pharmaceutical services and supplies;
 - o) Optometry services (provided on site);
 - p) Health education;
 - q) Inpatient hospitalization services.
 - r) Outpatient services
 - s) Immunizations;
 - i. Influenza: H1N1 and seasonal Influenza vaccines;
 - ii. Pneumococcal Vaccine;
 - iii. Hepatitis B Vaccine provided to high risk patients;
 - iv. Hepatitis A Vaccine when clinically indicated;
 - v. Hepatitis B vaccination will be provided to Inmate workers where there is a high risk of exposure; and
 - vi. Tetanus Vaccination when clinically indicated.
- 6) Infirmery Bed Use: Every consideration shall be given to use of Infirmery beds for the purpose of managing Inmates in a safe manner with short term medical needs to include, but not limited to:
- a) Controlled environment evaluations;
 - b) Medical conditions which prevent the Inmate from managing activities in general population but do not warrant a transfer to a Regional Sub-Acute Center;
 - c) Step down post hospitalization care not requiring the level of care provided at Regional Sub-Acute Centers;
 - d) Conditions in which IV fluid therapy for up to a two (2) week period, which may include antibiotic administration;
 - e) Post Emergency Room evaluation before release into general population, if clinically indicated;
 - f) Infirmery beds must be able to accommodate the medical and mobility needs of the Inmate or a medical transfer to a higher level of care may be indicated;
 - g) Routine wound care;
 - h) Intravenous, Intramuscular Therapy or Subcutaneous Therapy administration of fluids and/or medications;
 - i) Oxygen and/or CPAP;

- j) Wound care (including vacuum-assisted wound closure) and dressing changes;
 - k) Enteral Nutrition; and
 - l) Burn, cast and Ostomy care.
- 7) Chronic Care Clinics. The Facility shall develop and implement a program for the care of Inmates with chronic and infectious diseases, in accordance with TDOC Policy #113.32 as may be revised. The Chronic Care provided shall entail the development of an individual treatment plan by the responsible Physician specifying instructions for diet, medication, diagnostic testing, self-care instructions, disease education and follow-up. The Facility is responsible for the costs associated with dietary supplements ordered by the attending Physician. Chronic care patients shall be provided a review by a Mid-Level Provider every six months and by a Physician no less than every twelve months. Chronic Care conditions shall include but not be limited to: chronic respiratory diseases; cardio-vascular disease to include hypertension; diabetes; neurological disorders to include epilepsy; physical impairments that impact on their ability to function in a correction environment; geriatric care; terminally ill conditions, and infectious diseases to include HIV, and hepatitis C. In the event that a specific disorder is identified that impacts the State inmate population, the State reserves the right to require an addition to the list of chronic care conditions.
- 8) The Contractor shall be responsible for all medication costs. In addition:
- a) Except as set forth in subsection 17 below, the Contractor shall submit to the Chief Medical Officer a monthly Pharmaceutical utilization report denoting, but not limited to, the following: the prescriber, Inmate number, type of medication, and associated cost;
 - b) The Contractor shall be responsible for securing the services of a pharmaceutical company that provides a delivery system that assures that medications are properly stored, packaged, and administered and provides for accountability of Controlled Substances;
 - c) The Pharmaceutical company of choice shall possess the capability of producing drug information forms to be distributed on site by the prescribing psychiatrist or CNS. The drug information form shall be drug specific and include a patient signature line and date; and
 - d) The Contractor shall have in place a non-Formulary request process. The Contractor shall provide the State with a copy of the Contractor's Formulary as requested.
- 9) The Contractor shall furnish all DME and Prosthetics including but not limited to eyeglasses, hearing aids, and dentures. In the event it is the opinion of the Contractor's Medical Director that a prosthesis or DME is medically indicated, then said Contractor, as per TDOC Policy #113.08 as may be revised, shall provide the prosthesis or DME.
- 10) The Contractor shall be responsible for security services for inpatient care during the confinement period for which the Contractor is financially responsible, other than at a State facility. Contractor shall provide security at an off-site medical facility after the State assumes responsibility, if requested to do so by the State. In such instances, the State shall reimburse the Contractor for the actual cost of providing such security services including security meals.

For the purpose of the Utilization Management process, the Contractor shall notify in writing the Health Services Contractor of all hospital admissions within twenty-four (24) hours of the inpatient admission.

- 11) Mental Health: The Contractor shall provide routine and ancillary services per TDOC Policy #113.80 as may be revised. Services are defined as "interventions" which provide for the

detection, diagnosis, treatment and referral of Inmates/patients with mental health problems and the provision of a supportive environment when deemed clinically necessary. All programming curriculum shall be annually approved in written form by the Director of Behavioral Health Services. The Contractor shall develop and have in place program outcome measures that shall be reviewed by the Director of Behavioral Health Services and/or his or her designee. The State reserves the right to modify the curriculum and recommend reasonable program delivery change if it is determined that participants are not benefiting in the sole discretion of the Director of Behavioral Health Services.

- a) All services rendered or required pursuant to this Contract shall conform to the Standards and the following criteria. All behavioral health care services shall, at a minimum, meet the generally accepted standards of mental health care. All care provided shall be constitutionally adequate and designed to meet accreditation standards promulgated by the ACA. All clinical activity shall be conducted in accordance with nationally identified standards and those of State Boards of Licensure. All mental health care must also conform with any applicable federal, state and local laws, court decisions, Court Orders, consent agreements, and applicable TDOC Policies whether currently existing or as may be enacted, rendered issued or amended during the term of this Contract. Current TDOC Policies are posted at <http://www.tn.gov/correction/policies/poly.html>. If any applicable TDOC Policy or procedure establishes a higher standard than the national standard then the TDOC Policy and procedure will take precedence.
- b) The Contractor's service system shall provide a uniform and consistent continuum of quality mental health service delivery. The Contractor and staff shall provide services within the programmatic format defined by the Director of Behavioral Health Services or designee. The Contractor shall evaluate and diagnose in accordance with the current Diagnostic and Statistical Manual of Mental Disorders (DSM).
- c) Interventions as defined in this Subsection 11 above include services or programs that by TDOC Policy, statute, or patient need necessitate clinical intervention such as psychological/psychiatric assessment and evaluation, intake diagnosis, treatment plan development, pharmacological management, behavioral management, individual and/or group therapy, crisis management and case management. Services must be provided on a time sensitive basis.
- d) The Contractor's licensed staff shall supervise all non-licensed providers in accordance with the Tennessee Health Related Boards Rules and Regulations.
- e) The Contractor shall report to the Director of Behavioral Health Services the results of any approved and functional performance/outcome measures. The information may be provided in both electronic and hard copy formats as requested by the State. The results shall be utilized for service delivery comparisons such as, but not limited to, effectiveness of service delivery. A distinction shall be made as to whether the performance measure is determining the outcome of a specific program intervention or the expectation of the Contractor.
- f) The Contractor shall actively participate, when applicable, with the CQI Program as it relates to mental health delivery. The Contractor shall have in place a CQI Coordinator who shall work under the direction of the Director of Behavioral Health Services. The Contractor's CQI Coordinator is involved in the ongoing development of quality improvement indicators and studies to develop, implement, and oversee clinical guidelines, services, and practices to enhance quality and support continuity of care throughout the State mental health delivery system. This individual shall participate in the CQI Committee as a member and assist in the education and participation of institutional and contract staff in the CQI Program. All CQI studies require the approval of the CQI Committee.
- g) Peer Review: Annually, the work of all licensed mental health providers shall be reviewed jointly by the Contractor and appropriate State staff. In an effort to assure

clinical performance enhancement, the Contractor shall have a Peer Review Program that is approved in writing, by the Director of Behavioral Health Services. Said Peer Review Program shall be approved by the CQI Committee within sixty (60) days of the Effective Date and annually thereafter, but no later than January 1 of each calendar year. The program shall either meet or exceed the requirements of TDOC Policy #113.09 as may be revised. The State shall be notified of all peer review actions and results of the peer review shall be shared with the State's Peer Review Committee chairperson and Director of Behavioral Health Services. The State shall review reports and approve the Contractor's plan of Corrective Action for peer review deficiencies.

- h) The delivery of psychological services shall be provided by psychologists with health service provider designation, SPEs, LCSWs, and PEs who are licensed by the State of Tennessee or who have legal reciprocity to practice in the State of Tennessee, or master's level degree staff under the supervision of a licensed provider. Standards of practice shall be in accordance with those of the community and with state and federal laws.
- i) The Contractor shall complete psychological evaluations/assessments as requested and provide an individual treatment plan specific for those Inmates requiring psychological and/or psychotropic intervention(s).
- j) Upon request by the Director of Behavioral Health Services, the Contractor shall provide special education evaluations. The Contractor may utilize an appropriately trained educator to provide the education testing portion of these services.
- k) The Contractor's psychologist/SPE/LCSW/PE or a masters' degree level provider under the clinical supervision of a psychologist/SPE/LCSW shall provide group therapy when indicated. Therapy groups shall be designed to target symptoms identified with the mental health treatment plan.
- l) The Contractor's psychologist/SPE/LCSW/PE or a master's degree level provider under the clinical supervision of a psychologist/SPE/LCSW shall provide in-cell programs to Inmates in Restrictive Housing or use video conferencing systems when appropriate.
- m) The Contractor's psychologist/SPE/LCSW/PE shall provide individual therapy only when indicated and, after twelve (12) individual sessions, will present justification for continuing individual therapy in writing in a copy of the treatment plan to the Contractor's Clinical Director. Every reasonable effort shall be made to incorporate Inmates on the mental health caseload into group therapy.
- n) The Contractor's Clinical Director at the Facility shall review a representative sample of treatment team documentation and shall participate in the treatment team reviews as necessary.
- o) The Contractor's Clinical Director at the Facility shall provide clinical supervision and/or consultation to Facility mental health staff.
- p) The Contractor shall complete seventy-two (72) hour, thirty (30) day, and ninety (90) day mental health assessments on Inmates in Restrictive Housing as TDOC Policy dictates.

12) Mental Health Staffing Requirements.

- a) Staff Vacancies. When a mental health professional leaves the Contractor's service, the Contractor shall have forty-five (45) days to secure a replacement mental health professional.
- b) The Contractor shall provide a staffing matrix monthly, to include all vacant positions with position number, date the position was vacated, and status of filling the position. The potential hire for each licensed mental health professional position shall be

reviewed and approved by the State Director of Behavioral Health Services. The State will document in writing the reason(s) for any rejection of personnel.

- c) Notwithstanding any provision contained herein to the contrary, the Contractor shall provide adequate and qualified staff to fulfill its obligations under this Contract. The Contractor shall utilize the State's approved minimum staffing plan for the Facility. In the event of vacant positions, the Contractor shall provide adequate coverage to provide all required services. Any staffing plan changes during the Term of the Contract shall require the State's prior written approval. The Contractor shall submit monthly staffing reports pursuant to Section A.4.h. on or before the fifteenth (15th) of each month demonstrating the preceding month's actual staffing compared to the State approved staffing plan for the Facility. If a change in circumstances calls for a modification of the State approved staffing plan, the Contractor and the State shall review those changed circumstances and a formal review in accordance with Section C.10. shall determine any changes in staffing requirements and compensation. The State reserves the right to remove from the Facility or prohibit entry to the Facility any of the Contractor's employees or subcontractors if necessary.
 - d) Upon request by the Director of Behavioral Health Services, the Contractor shall provide or assist in providing a mental health education program to other Facility staff that may be provided in written format, audio/visual presentation, role-play, teleconferencing, etc. Said program shall be presented in writing to the State once requested, and be approved in writing by the State prior to delivery.
 - e) Mental Health Nursing Coverage. The Contractor shall provide coverage as specified in the approved Facility staffing plan. The mental health nursing staff are dedicated to the care and delivery of behavioral health services and shall not be reassigned or diverted to routine patient care except in temporary or emergency situations as defined by the Liaison. Mental Health Nurses' duties shall include, but not be limited to, triage of mental health Sick Call; drawing labs, checking vitals and other requests made by the Physician or Mid-Level Providers, and respond to behavioral health referrals. The Contractor's Mental Health Nurse shall administer involuntary Psychotropic Medications, ensure that medication is crushed in accordance with TDOC Policy #113.71 as may be revised, track medication compliance, and ensure medication orders are submitted timely. The Mental Health Nurse shall serve as the liaison between providers and conservators communicating with onsite and on call psychiatry and assess the need for suicide precaution/mental health seclusion. The Mental Health Nurse shall conduct general wellness groups, hygiene groups, attend weekly treatment team meetings as required by TDOC Policy #113.80 Section VI.B.9.b, and conduct psychoeducational medication groups. The Mental Health Nurse or other staff member as prescribed by Policy 113.88 VI.G.7 shall complete suicide precaution/mental health seclusion rounds daily, complete CR-3082 forms, and enter mental health data into the State's Offender Management System of record.
- 13) Hospital Services. The Facility shall obtain routine inpatient/outpatient services from licensed hospitals that are able to provide primary, secondary and tertiary services. The hospital network shall be able to provide neurosurgery as well as cardiovascular surgery. The Facility shall only utilize hospitals accredited by the JCAHO.
- a) A change in the hospital network shall be approved in writing by the State prior to implementation of the change. Inmate transfers to other hospital facilities may be approved by the State for facility inpatient unit care or local hospital care when medically necessary.
 - b) The Facility is responsible for notifying the Health Services Contractor and the Chief Medical Officer or designee of all hospital admissions as soon as an Inmate is transferred to a hospital within twenty-four (24) hours of admission. The State shall be the final authority in any dispute between the State Health Services Contractor and the Contractor. The information about the area of disagreement shall be sent directly to the

Chief Medical Officer or designee. The information shall include a synopsis of the issue, documentation of facts demonstrating the area of dispute and a clearly defined requested resolution.

- 14) Sex Offender. Upon request by the State, the Contractor shall implement a Sex Offender aftercare treatment program that conforms to TDOC Policies and procedures as may be revised. The State shall, when applicable, provide specialized training to Contractor for Sex Offender treatment programs. The Contractor shall follow the program philosophy and design standards as presented by the State. The Contractor shall be compensated for the costs associated with the program through an adjustment in the Per Diem Rate pursuant to Sections C.10. and E.3.

- 15) Substance Abuse. The Contractor shall provide:

- a) Classic cognitive-based modified therapeutic community (TC) structure as described in TDOC Policy #513.07.1 as may be revised:
 - i. Screening and assessment
 - ii. Pre-testing designed to evaluate the Inmate participant's cognition, psychological functioning, and social orientation at intake.
 - iii. Post-testing designed to evaluate the program's effect on change in the Inmate participant's cognitive, psychological functioning and social orientation upon program completion.
 - iv. TC roles and job functions
- b) Cognitive-based curriculum including one or a combination of the following:
 - i. Cognitive Behavioral Therapy (CBT)
 - ii. Utilization of motivational interviewing skills set
 - iii. Utilization of transtheoretical model of change theory (stages of change) skills set
 - iv. Program rules that govern TC participation
 - v. Community dynamics including but not limited to: push-ups, pull-ups, mentor system, role modeling, awareness sessions, accountability process, peer support/interaction, peer hierarchy, learning experiences, etc.
 - vi. Program incentives to recognize pro-social behavior changes
 - vii. In-house mentoring program
 - viii. Community meetings
 - ix. Relapse prevention
 - x. Parenting
 - xi. Integrity/accountability group
 - xii. Cognitive restructuring and conflict resolution/anger management
 - xiii. Problem solving training
 - xiv. Identifying anti-social and reinforcing pro-social thinking patterns
 - xv. Criminal thinking errors
 - xvi. Individual and group counseling
 - xvii. Victims impact
 - xviii. Job readiness
 - xix. Re-entry planning
 - xx. Drug testing will comply with TDOC Policy #513.07 and #506.21 as may be revised.
 - xxi. On-site aftercare once a week for participants who complete programming and are released back to the general prison population. Contractor shall also be responsible for communication between the clinical treatment staff: substance use program managers, behavioral health administrators, medical administrators, classification staff, and the Institutional Probation and Parole Officer (IPPO).

- 16) Notwithstanding any provision contained herein to the contrary, the Contractor shall be responsible for the cost of providing all health, medical, behavioral health, and Dental Services, including but not limited to inpatient hospitalization, any surgery and specialty

services, medications, specialty clinics, medically related transportation and the costs associated with the provision of services described in this section unless specifically excluded or limited in subsection 17 below under Exclusions And Limitations.

17) Exclusions and Limitations.

- a) If the Inmate is hospitalized, Contractor shall be responsible for Inpatient Hospital Costs up to the first FOUR THOUSAND DOLLARS (\$4,000.00) per Inmate per admission. The Health Services Contractor shall be responsible for Utilization Management of all hospital cases. Accordingly, once the Inmate has been determined medically stable, the Health Services Contractor shall decide if a hospital transfer is appropriate to manage the remainder of the hospital admission. In accordance with the Standards, Contractor may request that an Inmate be either temporarily or permanently transferred to DSNF. Upon written approval by the DSNF medical director, the Inmate will be transferred to DSNF for evaluation and/or treatment. If an Inmate is housed and treated at DSNF, the State shall assume financial responsibility for expenses incurred within its facility and for expenses incurred if the Health Services Contractor decides to transfer the Inmate from DSNF to another State or non-State facility for treatment. Provided, however, notwithstanding any provision contained herein to the contrary, any Inmate medical expenses resulting from the negligence or willful wrongdoing of the Contractor, its officers, agents or employees, shall be fully paid for by Contractor.
- b) Contractor shall not be responsible for any Inpatient Hospital Costs, including surgery or specialty services, associated with the treatment of persons with Acquired Immune Deficiency Syndrome (AIDS), as defined by the Centers for Disease Control. Contractor shall be responsible for hospitalization costs associated with other HIV infected patients.
- c) Contractor shall not be responsible for the cost of providing AZT or other medications therapeutically indicated for the treatment of Inmates with AIDS or HIV infection. Such treatment will be at the Department's discretion and expense.
- d) Contractor shall accept a percentage of inmates with Hepatitis C, HIV/AIDS and end stage chronic care needs comparable to the average percentage of such Inmates within the State's system.
- e) Final decision regarding financial responsibility rests with the Commissioner.
- f) The State shall be financially responsible for the actual cost of direct acting antiviral medications, inclusive of dispensing fees, to treat hepatitis C based upon orders placed through the TDOC Central Pharmacy for each individual medication recommended for use by the TDOC Advisory Committee on HIV and Viral Hepatitis Prevention and Treatment (TACHH) and subsequently administered in the treatment of a TDOC inmate. If an individual medication is not under contract with the Central Pharmacy, the State will reimburse the Contractor at the actual cost incurred, inclusive of dispensing fees, for those therapeutics not under contract with the Central Pharmacy but recommended for treatment in accordance with the protocols established by the TACHH.
- g) The State shall be responsible for the cost to test or vaccinate Inmates in the event of a pandemic, including but not limited to a novel virus.

- 18) Continuous Quality Improvement. The Contractor shall comply with the State's quality improvement initiatives in accordance with TDOC Policy #113.09 as may be revised.

19) Committees. The Contractor shall attend all committee meetings as indicated below:

- a) State Continuous Quality Improvement (CQI) Committee. The State Associate Medical Director and the Director of Behavioral Health Services shall be responsible for co-chairing the CQI Committee. Statewide quality improvement meetings are to be held quarterly or more frequently if necessary. At a minimum the Contractor's Medical Director, Contractor's Infectious Disease Management Coordinator, and Contractor's CQI Coordinator shall attend this meeting.
- b) Infectious Disease Committee. The Contractor shall assist with maintaining an Infectious Disease Committee consisting of the Chief Medical Officer, State Director of Nursing, Contractor's Infectious Disease Management Coordinator, the Contractor's Medical Director, and others as designated. The purpose of this committee is to establish an effective infectious disease management program which will meet the needs of Inmates with HIV/AIDS, TB, MRSA, Hepatitis, and other infectious diseases. The committee shall also be responsible for establishing educational and training programs which are designed to enhance the knowledge of Inmates and staff and thus prevent the spread of infectious diseases. These programs shall be consistent with acceptable medical standards and TDOC Policy # 113.42 for communicable and infectious disease as may be revised.
- c) Pharmacy & Therapeutics (P&T) Committee. The Contractor shall work in cooperation with the Chief Medical Officer to coordinate the P&T Committee. The Chief Medical Officer will chair this committee which shall meet quarterly or more often if necessary. In addition, any information related to specific medications such as a change in indications, drug-drug interactions, or warnings shall be discussed. The Contractor shall identify a clinical pharmacist who will attend meetings and be responsible for discussing reports related to Inmates on prescriptions, listing the most costly medications, as well as comparisons to other states based on other contracts of the Contractor or research on medication costs for other departments of correction.
- d) Peer Review Committee. The Chief Medical Officer shall chair the Physician Peer Review Committee for the purpose of reviewing the credentials and clinical performance of Physicians (to include Psychiatrists), dentists and, at the discretion of the Committee, PAs and APNs. The Contractor's membership on the Committee shall consist of the Contractor's Medical Director and the Contractor's Chief Dental Officer. This Committee shall meet bimonthly or more often if a situation may arise that indicates a need to meet. A meeting may be requested through the chair by any member.
- e) Peer Review. Annually, the work of all Physicians and dentists shall be reviewed jointly by the Contractor and Chief Medical Officer. In an effort to assure clinical performance enhancement, the Contractor shall have a Peer Review Program that is approved, in writing, by the Chief Medical Officer within sixty (60) days of the Effective Date and annually thereafter. The program shall either meet or exceed TDOC Policy and may be revised to comply with the CQI Charter for peer review. The Chief Medical Officer shall be notified of all peer review actions and the results of the peer review process shall be shared with the chairperson of the Peer Review Committee. The State shall review the peer review reports and approve the Contractor's plan of Corrective Action for peer review deficiencies.
- f) Morbidity and Mortality Committee. The Chief Medical Officer shall be responsible for chairing the State Morbidity and Mortality Committee. Morbidity and Mortality Committee meetings shall be held monthly or more frequently if necessary. At a minimum the Contractor's administrator, Contractor's Medical Director, and the Facility's attending Physician shall attend this meeting.

20.Reports.

- a) Monthly Operating Report. Within the first sixty (60) days of the Effective Date, the Contractor shall work with the State to design a monthly reporting template which shall be most useful to the State. Beginning in the third month of the Contract, the Contractor shall provide a monthly narrative report delineating the status of the health care operations occurring in the prior month. At a minimum, the monthly report shall include: utilization review, infectious disease and chronic disease statistics, staffing levels including shortfalls and unfilled positions, ancillary statistics, hospital/ emergency services statistics, telemedicine statistics, Incident reports, pharmacy statistics, committee reports, and all other monthly reporting requirements delineated under the scope of services of this Contract or required by TDOC Policy as may be revised. Said report shall be due on or before the eighth (8th) business day of the following month and shall identify successes and potential problems and resolutions. Ad hoc reports may be requested by the State as needed.

The Contractor shall submit a monthly, quarterly, and annual report to the State detailing inpatient/hospital statistics and the history of requests for specialty consultations and Procedures. The reports required by this part shall be provided in an electronic format acceptable to the State and shall at a minimum provide aggregate and individualized reports by Physician, Inmate, and service type. The Contractor shall use appropriate coding for inpatient hospital reporting (e.g. Diagnosis Related Grouping (DRG), International Classification of Diseases (ICD-10-CM). The Contractor shall provide the following and any other reports requested by the State on a monthly basis:

- i. State Daily Inpatient Census with key data elements, including the Inpatient Days Per Month (IDPM).
- ii. Inpatient Days Per Month by diagnosis and Average Daily Census (ADC)/ Average Length of Stay (ALOS).
- iii. Diagnostic code by medical facility and by provider.
- iv. Outliers, variance/ variability.
- v. Specialty consultations with key data elements.
- vi. Telemedicine consultations with key data elements. These elements must include but not be limited to the following:
 - I. Capacity: The total number of referrals. Number of specialty referrals that are appropriate for Tele-Health referral. These shall be reported by specialty.
 - II. ATP: Number of referrals completed by alternative treatment plan.
 - III. Number of initiated Tele-Health referrals.
 - IV. Number of consultations completed by off-site visit.
 - V. Number of completed Tele-Health referrals resulting in avoidance of transportation. (1) Direct (2) Indirect
 - VI. AMA (against medical advice): Number of Tele-Health referrals closed at the patients' request.
 - VII. Cancelled: Number of referrals closed for any reason other than previously described. Each incident must indicate reason i.e., cancelled

by provider, cancelled by transportation, cancelled due to mechanical difficulty.

If the State Health Services Contractor possesses data necessary for the Contractor to comply with the requirements of this section, the State shall ensure that such data is provided to the Contractor within five (5) days after the end of each month.

- b) Committee Meeting Minutes. The Contractor shall be responsible for preparing minutes of all committee meetings as designated by the State. The Contractor shall also be responsible for ensuring that all necessary data and reports are completed and reported to the State within the designated timeframes in an effort to identify areas of opportunity for improvement in health care operations.

c) Monthly CQI report. In accordance with TDOC Policy #113.09 as may be revised, The Contractor shall submit a monthly CQI report to the CQI Coordinator in a written or electronic form acceptable to the State, by the fifteenth (15th) day of each month.

d) Peer Review Documentation. At least annually, the Contractor shall provide the State with documentation that peer review has been completed for each Physician, dentist and Mid-Level Provider on staff at the Facility.

H. Food Service.

1. Contractor shall provide food service for the Inmates and volunteers in accordance with the Standards including but not limited to the provision of special diets for medical or religious requirements.
2. Contractor shall not be required to follow the State's standardized menu. The food service area must comply with State health regulations. At a minimum the amount of daily calories must conform with the recommended dietary allowances published by the Institute of Medicine of the National Academies. All menus must meet or exceed all applicable American Correctional Association (ACA) standards. Menus shall be approved by the State's registered dietician prior to implementation. Menus and a summarized nutritional analysis shall be filed with the State's Food Services staff before implementation.

I. Transportation.

- 1) The Contractor shall be responsible for the following Inmate transportation:
 - a) All transportation within the Local Area; and
 - b) Transportation outside the Local Area, as necessary, when the State's Central Transportation is unavailable or time restricts inter-institutional transfer, including but not limited to Inmates initially assigned to the Facility, administrative transfers initiated by the Warden and approved by the Commissioner's designee, and missed or late notification of court dates; provided, however, in the event said transportation outside the Local Area occurs more than ten (10) times in any twelve (12) month period, Contractor shall provide said transportation if requested by the Liaison and

will be reimbursed for labor in accordance with Section C.3.d

- 2) Contractor is responsible for all Inmate transportation costs that are medically related.
- 3) The Contractor shall provide security in conformance with the Standards while transporting Inmates.

J. Inmate Commissary.

1. Contractor shall provide a commissary for Inmates which shall supply only those non-consumable items approved by the State in writing and such consumable items as the Contractor approves and are not prohibited by TDOC Policy #209.01 as may be revised.
2. Contractor may not offer for sale to Tennessee Inmates Commissary items which are prohibited by State policy.
3. Commissary items shall be sold at a price determined by TDOC Policy #209.01 as may be revised and subject to the prior written approval of the Commissioner or his/her designee. All profits derived from the Commissary operation shall be retained by Contractor. Contractor shall utilize the statewide Inmate Trust Fund System for all Commissary transactions.

K. Laundry, Inmate Clothing and Hygiene.

1. All Inmates shall be clothed in standard issue clothing as prescribed by TDOC Policy #504.05 as may be amended and the Contractor shall be responsible for providing the clothing. This shall be provided for in the Per Diem Rate.
2. Contractor shall ensure the issue of clean, usable bed linen, towels, shoes and clothing to all Inmates.
3. Contractor shall provide Indigent Inmates with soap, toothbrush, toothpaste, comb, deodorant, and all other necessary hygiene supplies.
4. Inmates transferred from the Facility to another institution will be sent with the same amount of State uniform clothing required by TDOC policy as may be revised. Receiving institutions who note insufficient clothing in the property of Inmates received from the Facility shall notify the Liaisons' office at the Facility of the shortage.

- L. Mail. Contractor shall provide pick-up and delivery of Inmate mail in compliance with the Standards. Contractor shall furnish first class postage to Indigent Inmates for the mailing of legal documents to courts or legal counsel and a reasonable amount of postage for other purposes as per TDOC Policy #507.02 as may be revised, to include all special approved package programs.

M. Recreation.

1. Consistent with the Standards, the Contractor shall provide facilities, equipment and supplies for indoor and outdoor recreational and leisure time programs for the Inmate population.
2. Contractor shall provide for a comprehensive recreational program supervised by a qualified person and shall set forth the number of hours of outdoor recreation available to each Inmate. No later than fifteen (15) days prior to the Service Commencement Date, Contractor shall submit to the State one (1) hard copy and one (1) electronic version (in Word if possible) of updated written policy and procedures which shall provide the specifics of said program and shall be subject to the prior written approval of the State. Any changes to the approved program shall be approved by the State prior to implementation

N. **Reentry and Counseling Services.**

1. Contractor shall designate space within the Facility to provide counseling, case management, and reentry services in compliance with TDOC Policy #703.02 as may be revised. Counseling and reentry services shall include but not be limited to the following:
 - a. Administration of a Validated Risk-Needs Assessment according to TDOC Policy #703.02 as may be revised.
 - b. Assistance with obtaining offender identification/driver's license, birth certificate, and other vital records in keeping with TDOC Policies #511.05, #511.06 and #511.08 as may be revised.
 - c. Assistance with the development of a Reentry Plan for offenders expiring their sentences and/or transitioning to community supervision.
 - d. Career development planning as detailed in TDOC Policy #511.06 as may be revised.
2. Contractor shall provide adequate staff to provide counseling, case management, and Reentry Services and must include the following specialized counselor positions:
 - a. Chief Counselor
 - b. Reentry Specialist
 - c. Career Development Counselor

O. **Religious Services.** Contractor shall designate adequate staff, volunteers and space within the Facility for religious services and provide Religious Programs and/or Religious Activities in compliance with the TDOC Policy #118.01 as may be revised.

P. **Inmate Grievance Procedure.** Contractor shall comply with TDOC policies and procedures regarding the Inmate Grievance process and the State's system for maintaining Inmate Grievance-related records, as said policies and/or system may be revised during the term of this Contract.

Q. **Security.**

1. Contractor shall provide security in accordance with the Policy Series #506 as may be revised from time to time, and in accordance with the Standards at all times in the Facility, and while Contractor is transporting Inmates and at all other times unless relieved of said obligation by the Commissioner in writing. All Contractor policies and procedures regarding security shall be provided to the State via one (1) hard copy and one (1) electronic version (in Word if possible) no later than fifteen (15) days prior to the Service Commencement Date. Said policies and procedures shall be in accordance with the Standards and subject to written approval by the State prior to implementation. Contractor shall comply with said policies and procedures during the term of this Contract. All Inmate program activities in accordance with the Standards shall take place within the Facility. No Inmate shall leave the Facility except under security escort unless provided for by Policy Series #506 as may be revised.
2. At a minimum, Contractor shall provide security, perimeter control, Facility control, control center function, post orders, security patrols, security inspections, counting procedures, key control, procedures for search and control of contraband, tool control, escape plan detection, appropriate use of security equipment, use of restraints, use of firearms and chemical agents, tactical unit procedures, inspections, housing unit assignment plans, and internal and external movement control procedures and periodic shakedowns. Security procedures will be in compliance with TDOC Policy when applicable.

R. **Visitation**

Contractor shall designate physical space and provide appropriate security and supervision for indoor and outdoor visitation in accordance with applicable Standards, no less frequently than at comparable State facilities. Contractor shall furnish the State with a written visitation policy for attorneys and all other visitors via one (1) hard copy and one (1) electronic version (in Word if possible) no later than fifteen (15) days prior to the Service Commencement Date. Visitors must complete an application/approval process for permission to visit an inmate.

S. **Access to Courts.**

Contractor shall provide Inmates with constitutionally required access to the courts as required by the Standards.

T. **Inmate Discipline.**

1. Contractor shall implement and strictly adhere to State Inmate disciplinary rules and procedures in accordance with TDOC Policies as they may be amended.
2. All disciplinary procedures and disciplinary board activities shall strictly adhere to TDOC Policies #502.01, #502.02, #502.04 and #502.05 as may be revised.

3. Contractor agrees that no Inmate will be disciplined except as in accordance with this Section and the Standards.
4. Contractor shall use the present or any future system established by the State for recording disciplinary information.

U. Use of Force.

1. The Contractor shall comply with TDOC Policies on the Use of Force. Any internal policies and procedures and revisions thereto shall be in accordance with the Standards and subject to written approval by the State.
2. Notwithstanding any provision contained herein to the contrary, no Use of Force shall be allowed by Contractor except as in accordance with the Standards.
3. Contractor's employees shall be allowed to use force only
 - a. While on the grounds of the Facility;
 - b. While transporting Inmates;
 - c. During periods of community hospitalization;
 - d. During court proceedings;
 - e. While pursuing escapees from the Facility if the Commissioner requests said pursuit; and
 - f. While supervising Inmates away from the Facility and then only in accordance with the policies and procedures described in (U.1) and (U.2) above.
4. Contractor's employees shall be authorized to use such non-deadly force as the circumstances require only in the following situations:
 - a. To prevent the commission of a Felony or Misdemeanor, including Escape;
 - b. To defend themselves or others against physical assault;
 - c. To prevent serious damage to property;
 - d. To enforce Facility regulations and orders; and
 - e. To prevent or quell a riot or disturbance.
5. Contractor's employees shall be authorized and trained to in the Use of Deadly Force in accordance with State Policies #506.08 and #506.08.1 as may be revised and the Standards. The Contractor's employees authorized to use firearms must at a minimum meet the qualifications set forth in T.C.A. 62-35-117. Use of Deadly Force may be used only as a last resort and then may be used only to prevent Escape, to prevent the loss of life or serious bodily harm, or to quell a rebellion, Riot, or disturbance in which loss of life or serious injury to an individual is imminent. Only those employees who are appropriately trained, and, if

applicable, authorized by law shall be authorized to carry and use firearms.

V. **Sentence Reduction Credits.**

1. Sentence Credits shall be handled in accordance with TDOC Policy #505.01 as may be revised.
2. The decision on award or forfeiture of Sentence Credits remains solely with the State.

W. **Sentence Computation.** Contractor shall provide the State with essential data and information relating to sentence computation. All Sentence Computations, including calculation of Inmate release and parole dates, shall be done by the State and copies furnished to Contractor and Inmates. All other record keeping functions (e.g. posting of disciplinary reports, filing, updating Inmate assignments, custody levels, etc.) are the responsibility of Contractor.

X. **Records and Reports.**

1. Contractor shall provide for comprehensive operations and Inmate record and reporting systems for the Facility in compliance with the Standards as may be revised including updates or entries in the OMS operated by the State which shall include but not be limited to the following:
 - a) Inmate institutional records on each Inmate including, but not limited to, personal data, personal inventory receipts, Inmate Discipline reports, Incident reports, release information, classification and counseling records, dental, psychiatric and medical records.
 - b) Documentation regarding complaints against Contractor's staff, the number and nature of violent or other disruptive incidents among Inmates or against staff, the number and nature of disciplinary actions against staff, the rate at which Inmates complete programs successfully, the number of Inmates productively active on paid TRICOR work assignments and Facility work assignments, and the level of production;
 - c) Identification of all Inmates at the Facility and their actual assigned physical location within the Facility;
 - d) Identification of Facility staff and other authorized persons who have direct access to Inmate records; and
 - e) Provision of all reports requested by the State in writing for monitoring or evaluation of the Contract or any court-ordered compliance.
 - f) Information relating to performance-based outcome measures as established in A.3.c.1.b. and Appendix G.
2. The system shall adhere to the Standards governing confidentiality.

3. Contractor shall maintain a permanent log in addition to Shift Reports that record routine and emergency situations. Each shift shall maintain records of pertinent information regarding individual Inmates and groups of Inmates. These records shall be compiled daily and reviewed by appropriate supervisory staff.
4. All communication lines necessary to interface with the State's offender management information system of record shall be provided by the State at no cost to Contractor. Monthly network fees per computer and per printer shall be the responsibility of Contractor. Purchase of computer equipment is the responsibility of Contractor. Any computer equipment purchased by Contractor shall be submitted to the State for imaging prior to installation and the equipment shall be the same make and model as used by the State.
5. Contractor shall be required to incorporate into its operation all new systems developed to report and track Inmate record information designated by the Commissioner.
6. Upon request, all records, reports and documents will be made available immediately to the Liaison(s) for review. At the conclusion of the Contract, all records shall be turned over to the State.
7. Contractor shall prepare and submit to the Liaison(s) such reports as are required by the State. Unless otherwise notified in writing by the Liaison(s), these reports include the following, which must be submitted on a monthly basis:
 - a) Unusual Occurrence Reports
 - b) Incident Reports
 - c) Disciplinary Action Reports
 - d) Medical summaries
 - e) Program activity summaries
 - f) Inmate Grievances
8. Contractor shall promptly notify the Liaison(s) whenever an Inmate leaves the Facility on Court Order.

- V. **Escapes** Contractor shall exercise its best efforts to prevent Escapes from the Facility. If the frequency of Escapes or attempted Escapes shall be in excess of the frequency of Escapes or attempted Escapes from comparable State facilities without good cause or shall exhibit a disregard for the safety of the general public, the State may declare Contractor in Breach pursuant to Section E.10. Said determinations shall be within the sole judgment of the Commissioner.

In the event of an Escape resulting in whole or part from Contractor's failure to perform pursuant to the provisions of this Contract, the State may seek damages in a court of competent jurisdiction.

- Z. **Policy Audit** Contractor shall be inspected or audited at least annually in accordance with TDOC Policy #103.07 as may be revised with respect

to the implementation of at least those TDOC Policies and procedures listed in Appendix C as they may have been revised. Contractor may, in addition to audits and inspections by State staff, and at its own expense, elect to have a Policy Audit conducted using personnel independent from Contractor. The Policy Audit shall be in compliance with TDOC Policy #103.07 as may be revised, and Contractor shall respond as required. In the event an audit reveals a Breach, as defined in Section E.10 by Contractor, the State shall have available the remedies set out in Section E.10. and Appendix D.

AA. Post Orders.

1. Contractor shall develop and submit to the State, as soon as each is available, one (1) hard copy and one (1) electronic version (in Word if possible) but no later than fifteen (15) days or before the Effective Date, of the Post Orders required by this Contract in compliance with the Standards. Said Post Orders shall not be either implemented or revised without prior written approval of the State.
2. Post Orders shall be by post and shift and shall include Post Orders for all security positions.

BB. Inmate Work.

1. Inmate work is subject to the written approval of the Commissioner pursuant to Tenn. Code Ann. §41-24-110 or as same may be modified or amended in the future.
2. Any Minimum Restricted or higher custody Inmate working outside the Secured Perimeter must be under armed supervision. The specific location of inmates working outside the Secured Perimeter must be documented on the gate pass.
3. Contractor will be allowed to use Inmate labor for Facility operations and maintenance to the same extent Inmate labor is utilized in other State facilities pursuant to TDOC policy and not for the benefit of Contractor or its subcontractors. Contractor shall submit Inmate job descriptions for State's written approval via the OMS before assigning jobs to Inmates. Job assignments and re-assignments shall be made by Contractor only after the job description has been approved in writing by the State. No Inmate shall ever be placed in a position of authority or control over another or allowed to work on any form of security device or equipment.

Inmates shall not perform services or produce goods for use outside the Facility except upon written consent of the Commissioner.
4. In emergency situations, the State, in its sole discretion, may require the Contractor to furnish Inmates and security for outside work crews. Labor costs of security services associated therewith shall be reimbursed at the Contractor's actual cost, plus expenses and cost of operations.

5. Only the State shall provide Inmates with Sentence Credits. Contractor shall be responsible for establishing and administering a compensation program at its expense, which will include Inmate pay in compliance with the Standards. The State shall provide Inmates with sentence reduction credit.
- CC. **Industries.** An industries program may be established at the Facility during the term of the Contract upon the mutual written agreement of the parties. In the event an industry program is established pursuant to this section, unless otherwise agreed Contractor shall be responsible for all associated costs, including but not limited to security.
- DD. **Vocational and Academic Education.** Contractor shall furnish, at its own expense, vocational and academic education including filling of educational staffing vacancies as set forth in Section A.4.e. below, the Standards, and according to TDOC Policy Series #117 as may be revised. The Contractor shall ensure the principal and all teachers are licensed according to the applicable Tennessee Department of Education (TDOE) standards for the position they are hired for.
- EE. **Classification and Case Management.**
- (a) Contractor shall comply with TDOC Policy Series #401 as may be revised regarding classification and reclassification services.
- (b) Contractor shall be required to maintain classification information which conforms to the State's system.
- FF. **Inmate Trust Fund.** Contractor shall be responsible for maintaining an Inmate Trust Fund System following State procedures including those relating to deposits and withdrawals for payment of court costs, privilege taxes, and Criminal Injuries Compensation Fund requirements, as well as other applicable fees and deductions. All commissions from Inmate Trust Fund System deposits will be paid to the State in conformance with the terms of the Inmate Trust Fund System automation contract or any such contract awarded during the term of this contract.
- GG. **Sanitation and Hygiene.** Contractor shall provide for sanitation and hygiene in accordance with the Standards and TDOC Policy #112.08 as may be revised.
- HH. **Computer Software.** The State shall retain proprietary rights to all State provided software utilized in connection with this Contract.
- II. **Inmate Drug Testing.** Contractor shall conduct drug tests in accordance with TDOC Policy #506.21 and #513.07 as may be revised. Contractor shall be responsible for all costs. All positive drug screens shall be confirmed through a second methodology. Selection of Inmates to be tested at random will be the responsibility of the State.
- JJ. **Assumption of Control.**
1. Contractor shall review and comment on the State's plan for assumption of control within fifteen (15) days following its receipt by Contractor. The plan will provide for the orderly transfer of Inmates from Contractor to the State both temporarily and under conditions of termination. Contractor agrees to implement said plan upon written notice from the Commissioner.

2. Said plan shall also provide for Emergency Assumption of Control by the State of whole or part of the Facility under conditions of natural disaster, in the event of Riot or insurrection or other emergency circumstances wherein the Commissioner deems it necessary for the State to assume temporary or permanent control of the Facility. The Commissioner will determine whether and to what extent an emergency circumstance exists in his or her sole discretion.

Contractor shall be responsible for any expense the State may incur in the event the State assumes emergency control of the Facility and Contractor's compensation due under this contract shall be reduced commensurate with the reduction in services provided by Contractor during the emergency period. The State may withhold these amounts from any other amounts which may otherwise be due Contractor. The plan shall address Contractor's resumption of control after the circumstances causing the Emergency Assumption of Control have ended. The plan will provide for the transfer of all records to the State.

- KK. **ACA Re-Accreditation.** Contractor shall maintain, at its expense, ACA Re-Accreditation of the Facility unless prevented from doing so by State policies or action or inaction by the State.
- LL. **Inmate and Staff Identification.** Contractor shall comply with the procedures in the Standards for Inmate and staff identification including but not limited to, uniforms, fingerprinting and photographing.
- MM. **Inmate Personal Property Space.** Contractor shall follow applicable TDOC policy as may be revised on Inmate personal property.
- NN. **Library.** A general Inmate library shall be provided and operated by Contractor in accordance with the Standards.
- OO. **Volunteer Services.** Contractor shall implement a plan to provide for volunteer service programs in accordance with the Standards and TDOC Policy #115.01 as may be revised. At a minimum, Contractor shall provide for supervision and monitoring of the program and security background checks for volunteer applicants. Contractor shall establish and maintain a local volunteer advisory board.
- PP. **Rehabilitative Services.** The Contractor shall provide rehabilitative services in accordance with the Standards. Such services shall include, but not be limited to counseling, pre-release and transitional services.
- QQ. **Release Payments for Inmates.** Contractor shall follow TDOC Policy #208.01 and #511.03 as may be revised regarding transportation for discharged Inmates and discharge payments to said Inmates. Contractor shall make such payments at its own expense without reimbursement from the State.
- RR. **Space for Board of Parole/Institutional Parole Officer.** Contractor shall provide a hearing room for the Board of Parole two (2) days per month or as otherwise requested by the Board. The hearing room shall be large enough to comfortably accommodate three (3) Board of Parole members and fifteen (15) visitors. Contractor shall provide local and long-distance telephone service and furniture for the hearing room.

Contractor shall also provide furnished office space five (5) days each month, or as otherwise requested by the Board, for the IPPO.

SS. **Post-Conviction Actions**. The State shall defend any post-conviction action, including appeals and writs of habeas corpus, by any Inmate challenging the underlying judgment of conviction or the administration of the sentence imposed.

TT. **Legal Actions Against Contractor, Agents and Employees**. The State is not obligated to provide legal representation for any non-state-employee or official in any litigation arising from or based on this Contract, including but not limited to post conviction actions, or any actions brought under the United States Constitution or the Federal Civil Rights Act.

UU. **Incorporation by Reference**.

1. All plans, manuals and procedures required by this Contract to be submitted by Contractor to the State are made a part of this Contract upon approval by the State and all such plans, manuals and procedures are incorporated herein by this reference.
2. The absence of this paragraph in any other Contracts between Contractor and State shall not be construed as an indication that plans, manuals and procedures related to those contracts are not incorporated and included in those contracts.

VV. **Availability of Facility**. Should Contractor fail to have the Facility prepared to accept Inmates on the Service Commencement Date, the State, in its sole discretion, may terminate the Contract. Said termination shall not be deemed a breach by the State.

XX. **Tobacco Free Zones**. All State facilities, whether managed privately or by the State are tobacco-free zones. The possession, and or use of tobacco products while within the Secure Perimeter are expressly prohibited. Any Contractor employee caught in possession of tobacco will be subject to removal from the Facility and will have their access/entrance to the Facility revoked.

YY. **Contraband**. Any Contractor employee found with contraband in their possession or found to be using said contraband while on duty on State premises may be subject to arrest and/or termination.

A.4. STAFFING/EMPLOYEES

- a. **Independent Contractor**. Contractor is associated with the State only for the purposes and to the extent set forth in this Contract. With respect to the performance of the management services set out herein, Contractor is and shall be an independent contractor. The Contractor's agents and employees shall not accrue leave, retirement, insurance, bonding, use of State vehicles or any other benefit afforded to the employees of the State as a result of this Contract. Contractor, its agents and employees shall not be considered agents or employees of the State.
- b. **Executive Officer**. The Facility and its programs shall be managed by a single executive officer employed by the Contractor (sometimes referred to herein as "Warden"). The executive officer shall be subject to the prior written approval of the State.

- c. Organization. The Facility shall be managed according to the organizational chart approved by the State in writing. Any modification or alteration to said chart shall require the prior written approval of the State.
- d. Personnel. Notwithstanding any provision contained herein to the contrary, Contractor shall provide adequate staff to fulfill its obligations under this Contract, which shall be at a minimum the number of staff required by the State. All vacancies shall be filled in forty-five (45) days ; provided, however, that during the period of any vacancy, the services associated with said position shall be provided by Contractor unless the Commissioner has agreed in writing to the contrary with a reduction in the Per Diem Rate in accordance with Section C.10. The Contractor may request in writing a thirty (30) day extension of the forty-five (45) day time limit to fill a vacancy. The Commissioner may grant this request on a one-time basis for each applicable position. The Contractor must specify the position number of each extension request. The Contractor staff turnover ratio for security personnel shall not exceed fifty percent (50%) annually as of each June 30.

Overtime is not an acceptable method to cover staff vacancies beyond the time period for filling vacancies set forth in the prior paragraph; provided, however, Contractor shall receive a credit against any liquidated damages assessed for vacancies exceeding forty-five (45) days 1) for overtime costs incurred to fill vacant positions after forty-five (45) days ; and 2) for the costs incurred to provide agency staffing.

- e. Staffing Pattern/Security Post Assignment.
- 1) Contractor shall provide sufficient staff to ensure the appropriate supervision of Inmates and operation and maintenance of the Facility at all times and at a minimum shall abide by and fulfill the Staffing Pattern in Appendix H or required by the State.
 - 2) At a minimum, Contractor shall abide by and fulfill the security Post Assignment schedule approved by the State in writing which details by day and shift the security positions and hours of work. Said security Post Assignment schedule shall include designation of critical posts. The Contractor shall submit Post Orders and a security Post Assignment roster for the prior written approval of the State.
 - 3) If the State determines at any time that the Staffing Pattern and/or security Post Assignment schedule is inadequate, the Contractor agrees to place additional employees at the Facility and/or revise and implement the State's requested revisions to its Staffing Pattern and security Post Assignment. If Contractor is required to increase staff, it may request an adjustment in the Per Diem Rate pursuant to Section C.10.
 - 4) Any revisions to the Staffing Pattern and/or security Post Assignment require the prior written approval of the State. Contractor shall submit monthly staffing reports on or before the fifth (5th) of each month describing for the preceding month whether and to what extent Contractor has complied with the Staffing Pattern, security Post Assignment, and monthly Post Assignment. Staffing Patterns are determined by security and program requirements and associated workloads. If changed circumstances modify those requirements or workloads the Contractor and/or the State will review those changed circumstances and a formal review will determine any changes in staffing requirements at the sole discretion of the State. If the Contractor is required to increase staff, it may request an adjustment in the Per Diem Rate pursuant to Sections C.10. and E.3.
- f. Job Descriptions.
- 1) Contractor shall abide by the written job descriptions for each position in the Staffing Pattern in Appendix H, including but not limited to job title, responsibility and required minimum experience and education.

- 2) Any revisions or modifications of the job descriptions require the prior written approval of the State.
- g. Personnel Records. A personnel record shall be maintained for each employee at the Facility which at a minimum shall contain the following: application, background investigation, dates of employment, training, performance evaluations, and disciplinary actions. The Contractor shall obtain a signed statement from each employee authorizing the State to have access to the personnel record.
- h. Staffing Reports. On or before the fifteenth (15th) day of each month, Contractor shall submit a report to the Liaison(s) providing the following information:
1. the name of employees hired, indicating position, the position number and the date the position was vacated;
 2. the employee whose employment had been terminated for whatever reason whether voluntarily or involuntary (including reason for termination), position, and position number.
 3. Whether any position, including position number on the Staffing Pattern was vacant and for how many days.
- i. Reduction in Staff.
- 1) Contractor shall immediately notify the Liaison if any positions on the Staffing Pattern are vacant.
 - 2) If a position described in subsection 1) remains vacant in excess of the time allowed in A.4.d. or A.3.G.12, as applicable, then the State shall have the option of exercising the remedies available in Section E.10. and Appendix D.
- j. Background Checks.
1. Prior to employment with Contractor, applicants shall be subjected to a thorough background investigation, including criminal, employment, and medical histories. The background investigation for applicants for correctional officer positions shall also include psychological history, and such applicants shall be required to be certified by a qualified mental health professional as being free from any disorder as described, in the current edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association that would, in the professional judgement of the examiner, impair the subject's ability to perform any essential function of the job or would cause the applicant to pose a direct threat to safety. Employment histories must go back a minimum of five (5) years. All criminal background checks shall be completed according to State guidelines for contract employee background checks. The cost of the background checks is the responsibility of Contractor.
 2. A Security Addendum required by Title 28, Code of Federal Regulations Part 20, is appended hereto as Appendix B and incorporated by reference herein. The security addendum shall be included in any subcontract for management of the facility.
- k. State Assistance in Training.
1. During the term of this Contract, Contractor shall send a representative to participate in periodic meetings regarding State activities and shall send a

representative to sessions in which relevant TDOC Policy modifications are being discussed or presented.

2. Contractor will receive written notice of the time, place and agenda of the meetings or sessions described in subsection (1) at the same time State employees are provided notice.
 3. Said meetings or sessions will be held within the State, and Contractor shall bear any and all expense associated with its representative (s) being present.
 4. The State shall supply Contractor with technical assistance, consultation and informational support consistent with that provided other comparable institutions in accordance with the Standards provided, however, said support will consist solely of advice and consultation.
- I. Training. Contractor shall provide orientation and training programs for all employees in accordance with the Standards. All costs incurred for said orientation and training programs shall be borne by Contractor. Contractor's employees shall receive at least the same number of hours of orientation, pre-service, and in-service training as required by ACA Standards. The Liaison(s) shall be permitted to review training curricula and other training-related records and to audit training classes at any time.
- m. Drug Free Work Force. Contractor shall at all times maintain a drug free work force and shall implement a plan approved by the State for maintenance of a drug free work force and an employee assistance program.
- A.5. Prison Rape Elimination Act Compliance. Contractor must comply with the Prison Rape Elimination Act (PREA) of 2003 (Federal Law 42 U.S.C. 15601 et. seq.), with all applicable Federal PREA standards, and with all State policies as may be revised and standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within facilities/programs/offices owned, operated, or contracted.
- A.6. Direct Secure Messaging. If reports, spreadsheets or other documents, prepared by the Contractor, include PHI, the Contractor shall use Direct Secure e-mail using a Direct accredited Health Information Service Provider (HISP) to transport those documents to the State. If the Contractor subcontracts services to external mental health providers and PHI is transported from these external mental health providers to the Contractor or PHI is transported from external mental health providers to State, the PHI shall be transported via Direct Secure e-mail using a Direct accredited HISP.
- A.7. Key Performance Measures. The State shall utilize Key Performance Measures (KPMs) to measure the Contractor's performance against expected outcomes. The KPMs will be measured as described in Appendix G. At the end of each twelve (12) months of Service, the State will calculate and apply KPM amounts achieved for that twelve (12) month period against Liquidated Damages.
- B. TERM OF CONTRACT:**
- This Contract shall be effective on July 1, 2021 ("Effective Date"), and extend for a period of sixty (60) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.
- C. PAYMENT TERMS AND CONDITIONS:**
- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Three Hundred Forty-Five Million, One Hundred Twenty-Three Thousand Nine Hundred

Dollars (\$345,123,900.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.

a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.

b. Operating Per Diem Payments.

The State shall make Operating Per Diem Rate payments to The Contractor based on the number of Inmates actually at the Facility.

The operating per diem rate shall be recalculated at the beginning of each Fiscal Year during the term of the contract and any renewal periods. On each July 1, the operating per diem shall be increased by an inflator rate of 3.5%; provided, however, the operating per diem rate shall remain the same and not be increased if the percent change in the Consumer Price Index (CPI) (all cities/ all services) in the immediately preceding Fiscal Year was 0% or less; however, regardless of the CPI such inflator rate adjustment of 3.5% shall be granted for any fiscal year within the term of the contract and any renewal periods should the state employee workforce receive a general cost of living increase.

(1) The State may change the number of State Bed Days that the Contractor makes available to it from time to time by giving the Contractor 180 days advance written notice of the change. The State may lower or raise the State Bed Days in its sole discretion, for any reason or no reason including, but not limited to, the State's dissatisfaction with any management subcontract. Notwithstanding any provisions herein to the contrary, The Contractor shall make available to the State all or part of the Facility's capacity upon notice described herein and shall enter into no agreement to the contrary.

(2) Any beds not required to be made available to the State by this Contract may be filled with Inmates from other jurisdictions. Such Inmates shall be kept completely separate in all assignments including, but not limited to, housing and programming assignments. The Contractor shall notify the Commissioner and the Senate State Local Government and House State Government Committees of the source and nature of inmates from other jurisdictions proposed to be housed at the facility. Said notice shall be provided at least 30 days prior to receipt of such inmates at the institution. Within ten (10) days of receipt of such notice, the Commissioner shall notify the Contractor of any objection to the

proposal. If the Contractor decides to proceed with the housing of such inmates at the Facility over such objection it shall so notify the Commissioner prior to receipt of the inmates. The State shall have thirty (30) days from receipt of such notice to change, at its discretion, the number of State Bed Days that The Contractor makes available to it. The State shall provide at least ten (10) days' notice of the change in State Bed Days. The notice requirement is an exception to the 180-day notice required by **Section C.3.b.1** above.

- (3) No Operating Per Diem will be paid for Inmates housed and treated at a State Facility if the State is responsible for the costs of such treatment. Subject to the subsection (a) above, the Operating Per Diem Rate payment will be made only for Inmates actually incarcerated at the Facility, except the Operating Per Diem Rate payment shall be made for any Inmate hospitalized at a non-State or State Facility during the period when the contractor is responsible for said hospitalization expense. No Operating Per Diem shall be paid for any Inmate out on court order except as provided in **Section A.3.c.10.X.8**.
- (4) Inmate Days and billings will be determined by the Midnight count of each day, which count shall be periodically reviewed and signed by the Liaison(s).

Service Description	7/1/21-6/30/22	7/1/22-6/30/23	7/1/23-6/30/24	7/1/24-6/30/25	7/1/25-6/30/26
Operating Per Diem Per Felon Per Day	\$70.47	\$72.93	\$75.48	\$78.12	\$80.86

- c. Reimbursement to The Contractor for providing security services for inpatient care as required by Section A.3.c.10.G.10., shall be at the following rates:

Year 1 – July 1, 2021 – June 30, 2022	\$25.34 per officer/ per hour
Year 2 – July 1, 2022 – June 30, 2023	\$26.05 per officer/ per hour
Year 3 – July 1, 2023 – June 30, 2024	\$26.78 per officer/ per hour
Year 4 – July 1, 2024 – June 30, 2025	\$27.53 per officer/ per hour
Year 5 – July 1, 2025 – June 30, 2026	\$28.30 per officer/ per hour

- d. When reimbursement to The Contractor for labor incurred for inmate transportation or security services for inpatient care is required by Section A.3.c.10.G.10, such reimbursement shall be at the following rates:

Year 1 – July 1, 2021 – June 30, 2022	\$25.34 per officer/ per hour
Year 2 – July 1, 2022 – June 30, 2023	\$26.05 per officer/ per hour
Year 3 – July 1, 2023 – June 30, 2024	\$26.78 per officer/ per hour
Year 4 – July 1, 2024 – June 30, 2025	\$27.53 per officer/ per hour
Year 5 – July 1, 2025 – June 30, 2026	\$28.30 per officer/ per hour

Plus expenses and mileage determined in accordance with the rules set forth in the State Comprehensive Travel Regulations.

- a. With the State's written approval, The Contractor may designate in writing an entity to receive payment on its behalf.
- b. The State will calculate and compensate the Contractor for KPMs achieved for the previous twelve (12) month period pursuant to Section A.7. and

Appendix G on an annual basis if earned and achieved. Earned credits from the KPMs will be applied once each year against assessed Liquidated Damages.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Tennessee Department of Correction
6th Floor Rachel Jackson Building
320 Sixth Avenue North
Nashville TN 37243-0465

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice Number (assigned by the Contractor)
 - (2) Invoice Date
 - (3) Contract Number (assigned by the State)
 - (4) Customer Account Name: Tennessee Department of Correction, Accounts Payable
 - (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
 - (6) Contractor Name
 - (7) Contractor Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
 - (8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
 - (9) Contractor Remittance Address
 - (10) Description of Delivered Service
 - (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description (including name & title as applicable) of each service invoiced
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
 - iv. Amount Due by Service
 - v. Total Amount Due for the invoice period
- b. The Contractor understands and agrees that an invoice under this Contract shall:
- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
 - (2) only be submitted for completed service and shall not include any charge for future work;
 - (3) not include sales tax or shipping charges; and
 - (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be

construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.
- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
 - b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.
- C.10. Compensation Adjustment for Change of Services.
- (a) The parties recognize that each has entered into this Contract based upon the Standards in effect as of Effective Date of Contract. Contractor agrees to be bound by any applicable Standard change and said change shall not affect the validity of this Contract. If a change occurs in the applicable Standard, either party may notify the other in writing if it is believed said change shall affect the services delivered by Contractor. The Commissioner shall make the final, binding decision regarding whether a change has occurred in an applicable Standard and whether said change affects the services rendered by Contractor. Any adjustment in compensation due the Contractor shall be determined in accordance with subsection d) below.
 - b. If Contractor desires to make minor revisions to its approved plans, policies, procedures or any other matters approved by the State which will not affect its ability to comply with the other Standards, the Contractor shall notify the Commissioner of said proposed revision in writing. Said minor revisions may occur only upon the prior written consent of the Commissioner. It shall be within the Commissioner's sole discretion whether or not to agree to said minor revision and his decision shall be binding. Any adjustment in compensation resulting from said minor revision shall be determined in accordance with subsection d) below.
 - c. In the event Contractor may receive payments or compensation of any nature for services it is obligated to perform under this Contract from any source, including but not limited to federal, state or local authority, or any third party, other than the compensation described in this Contract, Contractor shall receive prior written consent and direction from the State prior to receiving any such additional compensation. The State may withhold a comparable amount from any payments due the Contractor under this Contract. In the event said additional compensation is used to provide enhanced or innovative services at the Facility as compared to the services provided by the State at comparable facilities, Contractor must still receive prior written consent from the State prior to receiving said compensation before the Contractor may retain those funds. The

Commissioner shall decide whether the funds will be used to provide enhanced or innovative services at the Facility.

- d. Within thirty (30) days of the notices required in subsections a) through c) above, Contractor shall provide State with the proposed adjustment in compensation and appropriate documentation in support thereof. The Commissioner shall decide whether and to what extent an adjustment in Per Diem Rate is appropriate. In the event Commissioner determines that an adjustment to the Operating Per Diem Rate is appropriate, the rate may be adjusted only by an appropriate amendment to this Contract as described in Section D.2.

C.11. Failure to Agree on Billing Dispute or for Additional or Reduced Services.

- (a) In the event Contractor disagrees with the State's failure to pay a disputed amount under Section C.14, disagrees with the determination of the Commissioner regarding whether and to what extent an adjustment in the Operating Per Diem for change in services is appropriate under Section C.10., disagrees with the Commissioner's determination under Section E.10.a. or disagrees with any other aspect or amount of payment made by the State then Contractor shall submit a claim and the grounds for said disagreement in writing to the Commissioner within thirty (30) days of the date the State either makes partial payment of the disputed bill or refuses the disputed bill in its entirety. Failure of Contractor to submit said claim and grounds to the Commissioner in writing within the time period described herein shall be an absolute waiver of said claim. The State shall be afforded a sixty (60) day period in which to effect a cure or take reasonable steps to effect a cure, if it deems a cure appropriate.
- (b) In the event Contractor timely provides the notice described in subsection (a) and the State does not cure to Contractor's satisfaction, then Contractor may file a claim against the State before the appropriate forum in Tennessee with jurisdiction to hear said claim. Failure by Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear said claim within one year of the notice described in subsection (a) shall operate as a waiver of said claim in its entirety. It is agreed by the parties that this provision establishes a contractual period of limitations for any claim brought by Contractor. Neither this Section nor any other provision of this Contract creates or expands jurisdiction of any court or commission over the State.

C.12. Failure to Pay Health Care Providers. Contractor shall be responsible for making payments to the hospital utilized by the State's Primary Health Care Contractor and to physicians providing services at such hospital within ninety (90) days of the invoice date for services to any Inmate assigned to the Facility for which Contractor is financially responsible under the provisions of **section A.3.c.10.G**, provided such charges are not being disputed by Contractor. When any such undisputed debt is more than ninety (90) days old, the State reserves the right to pay the provider and deduct the amount from payments due from the State to Contractor hereunder.

C.13. A dispute being resolved in accordance with this section shall NOT be deemed a Breach under Section E.10.

C.14. Billing Disputes. If the amount to be paid to Contractor is disputed by the State, the State, on or before the date the invoice is payable, shall advise the Contractor of the basis for the dispute and, in the manner provided above, pay the amount of such invoice which is not in dispute.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract, or by their successors or their designees, and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

D.3. Termination for Convenience.

- (a) The State may terminate this Contract without cause for any reason with ninety (90) days advance written notice; provided, however, the notice requirement shall not apply when the provisions of (d) hereunder are applicable. Said termination shall not be deemed a Breach.
- (b) Contractor shall be entitled to receive compensation for satisfactory authorized services completed as of the termination date, but in no event shall the State be liable to Contractor for compensation for any service which has not been rendered.
- (c) Upon such termination, Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount, except that the State shall pay for all supplies and equipment on order and not yet delivered to the Facility as of the date of termination.
- (d) This Contract requires Contractor to submit to the State certain policies, documents and information, including, but not limited to, a written Policy and Procedures Manual pursuant to Section A.3.c.10.D. and written Safety and Emergency Procedures pursuant to Section A.3.c.10.F. (collectively the "Required Information"), which Required Information is subject to the State's written approval. If the State does not approve the submitted Required Information and is unable to approve any re-submitted Required Information, the State may terminate this Contract immediately without notice, penalty or cost. Said termination shall not be deemed a Breach but shall be deemed a termination of convenience. Any such approval shall be in the sole discretion of the State.

D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.

D.5. Subcontracting.
Subcontractors.

- (a) It is acknowledged and agreed by the State and Contractor that the duties and the obligations of Contractor hereunder may be performed in whole and/or in part from time to time by subcontractors. Any performance by a subcontractor shall constitute and be deemed performance by Contractor hereunder, provided, however, performance by a subcontractor shall not release Contractor of its obligation hereunder. Contractor is utilizing CoreCivic for the management and operation of the prison. A copy of said contract with CoreCivic shall be delivered to the State for approval prior to execution of this contract. Contractor shall not modify said contracts without the prior written approval of the State; said approval shall not be unreasonably withheld. Said contracts shall include a provision requiring the subcontractor to provide the Commissioner with a copy of its previous fiscal year's audited annual financial statements on or before April 1 of each year during the term of this contract. Contractor shall not enter into any other subcontract or modification, for operation and management of the prison without obtaining the prior written approval of the State. Contractor agrees to place in its subcontracts, a provision allowing the State of Tennessee access to the Facility, Inmates,

personnel and records regarding the performance of any contractor or subcontractor for monitoring purposes. Any such provision shall include, but not be limited to, the same access as provided in A.3.c.5 above.

- (b) Contractor shall provide that all subcontractors warrant that no part of the total subcontract amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant in connection with any work contemplated or performed subject to the subcontract.
- (c) Contractor shall provide that all subcontractors agree that no person on the grounds of handicap, disability age, race, color, religion, sex, national origin, or any other classification protected by Federal and/or Tennessee State constitutional and/or statutory law shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance under the subcontract or in the employment practices of the subcontractor. The subcontractor shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places, available to all employees and applicants, notice of non-discrimination.
- (d) Contractor shall provide that all subcontracts for the performance in whole and/or part of the duties and obligations of Contractor shall contain provisions for the maintenance or documentation and auditing similar to Section D.5.e. herein.
- (e) Contractor shall provide that its contracts with CoreCivic referenced in subsection (a) and their successors and assigns, and any future contract for the management of the facility, include the following provision:

Hold Harmless. The parties acknowledge and agree that the State of Tennessee is a third-party beneficiary under this Contract because the Contractor will be performing services that will benefit the State of Tennessee and on which the State of Tennessee is relying pursuant to its separate contract with Contractor. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action, including reasonable attorneys fees, which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, bad faith, negligence, or willful misconduct on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give Contractor and the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by **Tennessee Code Annotated**, Section 8-6-106.

- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other

classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

- D.8. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*.
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being a Tennessee governmental entity, is governed by the provisions of the Tennessee Government Tort Liability Act, *Tennessee Code Annotated*, Sections 29-20-101 *et seq.*, for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.
- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to

and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.

- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.19. Invalidity and Severability.
- (a) In the event that any provision of this Contract shall be held to be unlawful, invalid or unenforceable, all parties agree that all other terms and conditions of this Contract shall remain in full force and effect except as specifically provided in this section.
 - (b) With the exception of the provisions contained in Sections E.3., E.9, E.15., E.16., and E.21, in the event any or all provisions of this Contract are found to be unlawful, invalid or unenforceable by the commission or court of competent jurisdiction, both parties agree that neither shall be in Breach or liable in any manner to the other for damages, costs, or expenses of any nature which the other might sustain due to said finding; provided, however, in the event said finding reduces the services rendered by Contractor, the State may reduce the Operating Per Diem Rate paid Contractor pursuant to Section 6.6 and said finding shall not excuse any other Breach.
 - (c) In the event a court of competent jurisdiction finds a provision(s) of this Contract to be unenforceable the Commissioner may terminate this Contract upon thirty (30) days prior written notice without penalty or liability to the State.
- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.21. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101 et. seq., addressing contracting with persons as defined at T.C.A. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.22. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law. The obligations set forth in this Section shall survive the termination of this Contract. The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Tony Parker, Commissioner
Tennessee State of Correction
6th Floor, Rachel Jackson Building
Nashville TN 37243-0465
Tony.Parker@tn.gov
Telephone # (615) 253-8139
FAX # (615) 532-8281

The Contractor:

Branden Bellar, Attorney At Law
206D Main Street
PO Box 192
Carthage TN 37030
branden@brandenbellar.com
Telephone # 615.588.1605
FAX # 615.588.1604

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Competitive Procurements. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or contracted services. Such procurements shall be made on a competitive basis, where practical. The Contractor shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Contract. In each instance where it is determined that use of a competitive procurement method was not practical, said documentation shall include a written justification, approved by the Commissioner, for such decision and non-competitive procurement.
- E.5. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received,

reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

- E.6. Public Accountability. If the Contractor is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor shall display in a prominent place, located near the passageway through which the public enters in order to receive services pursuant to this Contract, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

- E.7. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, *U.S. Code*.

- E.8. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.

- E.9. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify or ensure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Contract.

- E.10. A Party shall be deemed to have breached the Contract (a "Breach") if any of the following occurs:
- failure to perform in accordance with any term or provision of the Contract;
 - partial performance of any term or provision of the Contract;
 - any act prohibited or restricted by the Contract, or

— violation of any warranty.

The Parties agree that the audit instruments attached hereto as Appendix B, as the same may be revised (the "Audit Instruments") shall be the primary tool used to identify a Breach. It is the intent of the Parties that the Liaisons shall conduct audits of Contract compliance using the Audit Instruments on such time periods proscribed in each Audit Instrument.

A dispute being resolved in accordance with Section C.11 shall NOT be deemed a Breach. Contractor shall not be deemed in Breach of a revised TDOC policy or new TDOC policy applicable pursuant to Section A.3.c.10.A.2 for thirty (30) days after receiving notice from the State of such revised or new TDOC policy. In event of a Breach by Contractor, the State shall have available the remedy of actual damages and any other remedy available at law or equity in addition to the remedies set forth in this Section E.10.

a. Contractor Breach Requiring Immediate Compliance.

- i. If the Commissioner determines that the Contractor is in Breach of this Contract and such Breach, in the opinion of the Commissioner may (i) adversely affect the security or operation of the Facility, (ii) present a hazard to the safety or health of the Inmates or other individuals, or (iii) result in the adverse operation of the Facility building systems (boilers, chillers, piping, electrical, security electronic, fire/life safety, etc.) (each an "Immediate Compliance Breach"), then the Contractor shall be notified in writing (or verbally if it is believed an emergency situation exists) of said Breach and directed to immediately correct the noncompliance.
 - ii. The Contractor shall immediately notify the Commissioner of the proposed Corrective Action. If the Commissioner does not object to the proposed Corrective Action within a reasonable time after receipt, the Contractor shall immediately implement said Corrective Action.
 - iii. If the Commissioner disagrees with the proposed Corrective Action or if the Contractor fails to notify the Commissioner immediately of its proposed Corrective Action, the Commissioner shall specify Corrective Action (a "Commissioner Directed CA") and the Contractor shall immediately implement the same.
 - iv. In the event the Contractor disagrees with the determination of noncompliance, designated Corrective Action, or Commissioner Directed CA, a request for reconsideration may be taken to the Commissioner. In no event shall the Corrective Action or Commissioner Directed CA, as applicable, be delayed pending resolution of the request for consideration.
 - v. Upon examination, if the Commissioner determines in his or her sole discretion that noncompliance did not exist or that the Corrective Action or Commissioner Directed CA required by the State was excessive, the Commissioner shall authorize payment to the Contractor of the actual expense incurred in taking said Corrective Action or excessive Corrective Action/Commissioner Directed CA upon receipt of appropriate documentation substantiating said expense from the Contractor. All directions and actions by the Commissioner and actions by the Contractor shall be recorded and reported in writing as soon as practical and filed with the State Office of Compliance, which is part of State's Office of Investigation and Compliance (OIC).
- b. Other Contractor Breach. Upon occurrence of a Breach detailed in an Audit Instrument that is not an Immediate Compliance Breach or any other Breach addressed specifically elsewhere in this Contract (a "Liquidated Damages Event"), the State may take the following steps:

- i. The State shall provide written notice of such Liquidated Damage Event (a "First Breach Notice") to Contractor within thirty (30) days of the Breach specifying the Liquidated Damage Event, and providing an opportunity to cure said Liquidated Damage Event within a minimum of thirty (30) days from receipt of the First Breach Notice, such time period to be determined by the State in its sole discretion.
- ii. If said Liquidated Damage Event is not cured within the time permitted in the First Breach Notice, then the State shall provide written notice (a "Second Breach Notice") to Contractor of the failure to cure in accordance with the First Breach Notice. The Second Breach Notice may elect to specify that the State may elect to begin assessing liquidated damages ("Liquidated Damages"), as provided in Appendix D of this Contract, as a result of such Liquidated Damage Event and, if applicable, shall include the date on which such assessment will begin (such date shall be no earlier than the date of the Second Breach Notice) and the rate under which Liquidated Damages will be assessed until such time as said Breach is cured or the State takes action as set forth in Section E.10.b.iii.
 1. The Parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for the Contractor's failure to fulfill its obligations regarding the Liquidated Damages Event as said amounts are likely to be uncertain and not easily proven. The Contractor has carefully reviewed the Liquidated Damages amounts contained in Appendix D and agrees that it represents a reasonable calculation of the amount and what might reasonably be expected in the event of a Liquidated Damages Event, and further, said rates are a reasonable estimate of the damages that would occur from a Liquidated Damages Event. The Parties agree that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the Liquidated Damages are in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or other sections of this Contract.
 2. The State is not obligated to assess Liquidated Damages in lieu of availing itself of any other remedy pursuant to this Contract. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity.
 3. In the event Contractor disagrees with the State's assessment of liquidated damages, it may file a claim against the State before the appropriate forum in Tennessee with jurisdiction to hear the claim. In the event Contractor prevails on such a claim, Contractor shall have an option to terminate for convenience by giving written notice to the State three (3) years in advance.
- iii. If said Breach remains uncured for more than thirty (30) days after delivery of the Second Breach Notice to Contractor (an "Uncured Breach"), then the State shall have the right to declare a "Partial Default" or terminate the Contract in accordance with the provisions below.
 1. Partial Default. If a Partial Default is declared, the State shall provide written notice (a "Partial Default Notice") to the Contractor declaring a Partial Default and notifying Contractor of: (1) the date which Contractor shall terminate providing the service for which a Partial Default was declared; and (2) the date the State will begin to provide the service for which a Partial Default was declared (the "Partial Termination Date").

Notwithstanding the foregoing, the State may revise the Partial Termination Date by providing written notice to the Contractor.

In the event the State declares a Partial Default, the State may withhold, together with any other damages associated with the Uncured Breach, from the amounts due the Contractor the excess cost to the State of providing the defaulted service, whether said service is provided by the State or a third party.

The State may assess Liquidated Damages against the Contractor for any failure to perform which ultimately results in a Partial Default with said Liquidated Damages to cease on the Partial Termination Date. The Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount as a result of the State's declaration of Partial Default. Contractor agrees to perform all of its remaining obligations under this Contract in the event a Partial Default is declared.

2. Contract Termination. In the event the State elects to terminate the Contract in accordance with this section, the State shall send written notice of its decision (a "Termination Notice") to Contractor. The Termination Notice will specify the protocols and plan to be followed for the orderly termination of the Contract and Contractor shall abide by the same. In the event the Contract is terminated in accordance with this section, the Contractor shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State in terminating this Contract, but Liquidated Damages shall continue to accrue until the date of the Termination Notice. Contractor agrees to perform all of its remaining obligations under this Contract until such time as the State has taken over all of Contractor's obligations at the Facility, as determined by the State in its sole discretion.
- c. Value Added Credit. The assessment of Liquidated Damages, if any shall be based on the calculation of damages pursuant to E.10. At the end of each year of the contract term, the amount of Liquidated Damages assessed shall be reduced by the amount of the KPM credit earned by the Contractor pursuant to Appendix G. All KPM credits earned during a year of the contract term shall be applied towards Liquidated Damages at one time, with **no** KPM credit carrying into the next year of the contract term for reduction of future Liquidated Damages.

Liquidated Damages shall be tracked on a spreadsheet by the Director of Contract Monitoring for Privately Managed Facilities beginning at the time the State issues the initial non-compliance report to the Contractor. Any Contractor appeal or communication asking for a reduction in the initial assessed Liquidated Damage is tracked, as is any State determination to reduce the assessed Liquidated Damage amount. Tracking continues through the final amount deducted from the current Contractor's invoice when said invoice is processed for payment to the Contractor. The invoice reduction for the final amount of the Liquidated Damage shall serve as payment to the State.

- d. State Breach. In the event of a Breach of Contract by the State, the Contractor shall notify the State in writing within thirty (30) days of any Breach of Contract by the State. Said notice shall contain a description of the Breach. The State shall be afforded a forty-five (45) day period in which to effect a cure; provided, however, that if the alleged Breach concerns the State's failure to make payment under this Contract, the State shall have six months (6) months after the notice to effect a cure if the State is working diligently to effect the cure, unless the payment is subject to a dispute between the

parties. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the State's Breach. In no event shall any Breach on the part of the State excuse the Contractor from full performance under this Contract. In the event of Breach by the State, the Contractor may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor. In the event the State fails to make payment due under this contract within the cure period specified herein and the amount due exceeds one hundred thousand dollars (\$100,000), Contractor may terminate the contract upon six (6) months prior written notice to the Commissioner; provided, however, Contractor may terminate this Contract only upon the State's failure to pay an amount which is not in dispute.

E.11. Insurance and Defense of Claim.

- a. Types of Insurance. Contractor and/or one of its management subcontractors shall maintain and pay for insurance substantially as described in Appendix E. The State shall be listed as an additional insured.
- b. Defense/Immunity. Notwithstanding any provision contained herein to the contrary, the State does not waive any immunity defenses which may exist by operation of law, including, but not limited to, limitations on the amount of damages which may be awarded or paid.

E.12. Prohibitions.

Notwithstanding any other provision of this Contract to the contrary, nothing contained herein shall be interpreted to authorize, allow or imply authority of Contractor to do the following:

- (a) develop or implement procedures for calculating Inmate release and parole eligibility dates;
- (b) develop and implement procedures for calculating and awarding sentence credits;
- (c) approve Inmates for furlough and work release;
- (d) approve the type of work an Inmate may perform, and the wages or sentence credits which may be given to Inmates engaged in such work; and
- (e) grant, deny or revoke sentence credits; place an Inmate under less restrictive custody or more restrictive custody; or take any disciplinary actions; provided, however, that this Section shall not prevent Contractor from making recommendations to the State with respect to any of the above in conformance with State policy.

The Commissioner shall determine whether any action or proposed action violates the provisions of this section.

E.13. Contractor's Representations and Warranties.

- (a) Authorization. This Contract has been duly authorized, executed, and delivered by Contractor and, assuming due execution by the appropriate State officials as indicated on the signature page of this Contract and delivery by State, constitutes a legal, valid, and binding agreement enforceable against Contractor in accordance with its terms.

- (b) No Defaults under Agreements. Contractor is not in default, nor is there any event in existence which, with notice or the passage of time or both, would constitute a default by Contractor, under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, contract, governmental license or permit, or other agreement or instrument to which it is a party or by which any of its properties are bound and which default would materially and adversely affect Contractor's ability to perform its obligations under this Contract.
- (c) Compliance with Laws. Contractor and its appointed officials are acting in compliance with all applicable laws, rules, and regulations.
- (d) No Violation of Contract. Articles of Incorporation by Bylaws. The consummation of the transactions contemplated by this Contract and its fulfillment of the terms hereof will not conflict with, or result in a breach of any of the terms and provision of, or constitute a default under any indenture, mortgage, deed or trust, lease, loan agreement, license, security agreement, contract, governmental license or permit, or other agreement or instrument to which Contractor is a party or by which its properties are bound, or any order, rule, or regulation of any court or any regulatory body, administrative agency, or their governmental body applicable to Contractor or any of its properties, except any such conflict, breach, or default which would not materially and adversely affect Contractor's ability to perform its obligation under this Contract.
- (e) No Litigation. There is not now pending or, to the knowledge of Contractor, threatened, any action, suit or proceeding to which Contractor is or may be a party, before or by any court or governmental agency or body, which might result in any material adverse change in Contractor's ability to perform its obligations under this Contract, or any such action, suit, or proceeding related to environmental or civil rights matters; and no labor disturbance by the employees of Contractor exists or is imminent which might materially and adversely affect Contractor's ability to perform its obligations under this contract.
- (f) Disclosure. There is no material fact which materially and adversely affects or in the future will (so far as Contractor can reasonably foresee) materially and adversely affect Contractor's ability to perform its obligations under this Contract which has not been accurately set forth in this Contract or otherwise accurately disclosed in writing to State by Contractor prior to the date hereof.
- (g) Opinion of Contractor's Counsel. Contractor shall furnish to State an opinion of counsel in connection with this Contract dated as of the date of the Contract. Such opinion shall address Contractor's compliance with applicable law, affirm its authority to enter into this Contract, indicate that Contractor is not currently in litigation or have notice of litigation that could cause the Contractor not to perform the terms of this Contract except as noted expressly herein and affirm the enforceability of this Contract in accordance with its terms.

E.14. Miscellaneous.

- a. Release. Contractor, upon final payment of the amount due under this Contract, releases the State, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. Contractor agrees not to purport to bind the State to any obligation not expressly assumed herein by the State.
- b. Assignment. Contractor shall not assign this Contract without obtaining the prior written approval of the State. Any such assignment shall contain, at a minimum, Sections of this Contract pertaining to "Conflicts of Interest," "Non-discrimination" and "Records" as identified by the section headings.
- c. Research Projects. Contractor and/or its subcontractors shall not publish or disseminate any findings based on data obtained from the operation of this Contract or engage in any research projects without the prior written consent of the State.

- d. Third Party Beneficiary. Neither Contractor nor the State intends to create rights for any third party of the Contract and no third party beneficiary rights are created hereby. Third parties shall mean all persons except the State and Contractor, including but not limited to employees of Contractor, subcontractors of Contractor and Inmates located at the Facility.
- e. Attorneys Fees. Contractor agrees that, in the event either party deems it necessary to take legal action to enforce any provision of the contract and in the event the State prevails, Contractor shall pay all expenses of such action, including but not limited to the State's attorneys' fees and costs of all stages of the litigation.
- f. Approvals. Any policies, procedures or other documents contained or referenced in this Contract subject to the State's approval under the terms of this Contract shall remain subject to State prior written approval whenever they are revised, amended, replaced or supplemented. Contractor agrees to accept and implement any revisions, alterations or supplements suggested by the State to any document, plan, policy or procedure which requires State approval.
- g. Notices. Failure of the State to provide any notice to Contractor described in this Contract whether or not the State had knowledge of the appropriateness of said notice shall not relieve Contractor of its obligation to perform in accordance with this Contract and shall not be a waiver or excuse for any failure to perform.

E.15. Termination.

- (a) In the event of a Breach by Contractor which is not cured as provided in Section E.10. hereof, the State may terminate the Contract immediately or in stages.
- (b) Contractor shall be notified of the termination in writing signed by the Commissioner. Said notice shall hereinafter be referred to as Termination Notice.
- (c) The Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that Contractor shall cease operations under this Contract in stages.
- (d) Contractor agrees to cooperate with the State in the event of a termination.

E.16. Performance Bond. If the State determines a performance bond is necessary, then The Contractor will obtain, at the State's expense, such bond acceptable to the State in form and substance.

E.17. Written Notices. The necessity of written notices herein shall be strictly construed.

E.18. No Contingent Fees. No person or entity shall be employed or retained or given anything of monetary value on a contingent fee basis to solicit or secure this Contract, except bona fide employees of Contractor (including proposed subcontractors) or bona fide established commercial or professional entities retained by Contractor for the purpose of securing business. For violation of this Section, in addition to the remedies available pursuant to Section E.11, the State shall have the right to deduct from any amount owed Contractor the amount of such commission, percentage, brokerage or contingent fee, and other benefit from the Contractor.

E.19. Contract Interpretation. The Parties agree that should a dispute arise involving the construction or interpretation of this Contract, it shall not be construed or interpreted in favor of either party.

E.20. Fraud/Misrepresentation. If, in the course of any stage under the term of the Contract, the Contractor commits fraud, misrepresentation or conspiracy to defraud the State, the State shall have the right to pursue any remedies described in Section E.10, and/or pursue any criminal sanctions allowed by law.

E.21. Financial Termination. The State may terminate the Contract without penalty to the State in the event the Contractor:

- a. admits in writing its inability to pay its debts;
- b. makes a general assignment for the benefit of creditors;
- c. suffers a decree or order appointing a receiver or trustee for it or substantially all of its property to be entered and, if entered without its consent, not to be stayed or discharged within 60 days;
- d. suffers proceedings under any law relating to bankruptcy, insolvency, or the reorganization or relief of debtors to be instituted by or against it and, if contested by Contractor, not to be dismissed or stayed within 60 days; or
- e. suffers any judgment, writ of attachment or execution, or any similar process to be issued or levied against a substantial part of its property which is not released, stayed, bonded, or vacated within 60 days after issue or levy.

E.22. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

IN WITNESS WHEREOF,

TROUSDALE COUNTY:



CONTRACTOR SIGNATURE

June 4, 2021

DATE

Stephen Chambers, Hartsville/Trousdale County Mayor

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

_____, COURT CLERK

DEPARTMENT OF CORRECTION:



TONY PARKER, COMMISSIONER

6/17/21

DATE

**AMENDMENT ONE
OF CONTRACT 71295**

This Amendment is made and entered by and between the State of Tennessee, Tennessee Department of Correction, hereinafter referred to as the "State" and Trousdale County, hereinafter referred to as the "Contractor." For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract Section C.1. is deleted in its entirety and replaced with the following

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Three Hundred Fifty-Nine Million, Eight Hundred Seventy-Two Thousand, Seven Hundred Twenty-Two Dollars (\$359,872,722.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

2. Contract Section C.3.b. is deleted in its entirety and replaced with the following:

b. Operating Per Diem Payments.

The State shall make Operating Per Diem Rate payments to The Contractor based on the number of Inmates actually at the Facility.

The operating per diem rate shall be recalculated at the beginning of each Fiscal Year during the term of the contract and any renewal periods. On each July 1, the operating per diem shall be increased by an inflator rate of 3.5%; provided, however, the operating per diem rate shall remain the same and not be increased if the percent change in the Consumer Price Index (CPI) (all cities/ all services) in the immediately preceding Fiscal Year was 0% or less; however, regardless of the CPI such inflator rate adjustment of 3.5% shall be granted for any fiscal year within the term of the contract and any renewal periods should the state employee workforce receive a general cost of living increase.

- (1) The State may change the number of State Bed Days that the Contractor makes available to it from time to time by giving the Contractor 180 days advance written notice of the change. The State may lower or raise the State Bed Days in its sole discretion, for any reason or no reason including, but not limited to, the State's dissatisfaction with any management subcontract. Notwithstanding any provisions herein to the contrary, The Contractor shall make available to the State all or part of the Facility's capacity upon notice described herein and shall enter into no agreement to the contrary.
- (2) Any beds not required to be made available to the State by this Contract may be filled with Inmates from other jurisdictions. Such Inmates shall be kept completely separate in all assignments including, but not limited to, housing and programming assignments. The Contractor shall notify the Commissioner and

the Senate State Local Government and House State Government Committees of the source and nature of inmates from other jurisdictions proposed to be housed at the facility. Said notice shall be provided at least 30 days prior to receipt of such inmates at the institution. Within ten (10) days of receipt of such notice, the Commissioner shall notify the Contractor of any objection to the proposal. If the Contractor decides to proceed with the housing of such inmates at the Facility over such objection it shall so notify the Commissioner prior to receipt of the inmates. all State shall have thirty (30) days from receipt of such notice to change, at its discretion, the number of State Bed Days that The Contractor makes available to it. The State shall provide at least ten (10) days' notice of the change in State Bed Days. The notice requirement is an exception to the 180-day notice required by Section C.3.b.1 above.

KY 2/28/22
SLC (3) 11
3/2/2022

No Operating Per Diem will be paid for Inmates housed and treated at a State Facility if the State is responsible for the costs of such treatment. Subject to the subsection (a) above, the Operating Per Diem Rate payment will be made only for Inmates actually incarcerated at the Facility, except the Operating Per Diem Rate payment shall be made for any Inmate hospitalized at a non-State or State Facility during the period when the contractor is responsible for said hospitalization expense. No Operating Per Diem shall be paid for any Inmate out on court order except as provided in Section A.3.c.10.X.8.

KY 2/28/22
SLC (4) 12
3/2/2022

Inmate Days and billings will be determined by the Midnight count of each day, which count shall be periodically reviewed and signed by the Liaison(s).

Service Description	7/1/21-6/30/22	7/1/22-6/30/23	7/1/23-6/30/24	7/1/24-6/30/25	7/1/25-6/30/26
Operating Per Diem Per Felon Per Day	\$70.47	\$72.93	\$75.48	\$78.12	\$80.86
Salary Increase Per Diem Per Felon Per Day	\$3.62*	\$3.62	\$3.62	\$3.62	\$3.62

*This per diem will be effective upon the effective date of this amendment and continue as indicated in the chart above.

KY 2/28/22
SLC (5) 13
3/2/2022

The Salary Increase Per Diem shall be utilized to compensate certain positions in accordance with the chart below. This shall not be utilized to fund vacant positions. As such, the Contractor shall include with its invoice a completed Appendix J Appendix G along with supporting documentation showing: the name, hire date, previous compensation rate, and current compensation rate for each qualifying employee, number of hours worked including overtime and additional cost of benefits. However, no such overtime and additional costs shall exceed the maximum amount allotted for Salary Increase Per Diem.

KY 2/28/22
SLC 3/2/2022

New Employees hired after 12/21/2021			(a)	(b)	(c)=(b)-(a)	(d)=(c) * 2.080	(e)=(d) / 12 * 1		
Position Title	Previous Entry Wage	Additional cost of Benefits	Previous Entry Wage Total	TDOD Entry Wage	Additional cost of Benefits	TDOD Entry Wage Total	Allowable Hourly Increase	Annual Amount included in Salary Increase Per Diem	Monthly Deduction for each Vacant Position
Correctional Officer (less than 12 months)	\$16.50	\$3.25	\$19.75	\$21.40	\$4.22	\$25.62	\$5.87	\$12,209.60	(\$1,017.47)
Correctional Officer (over 12 months)	16.50	3.25	19.75	22.48	4.43	26.91	7.16	14,892.80	(1,241.07)
Senior Correctional Officer	18.69	3.69	22.38	24.78	4.89	29.67	7.29	15,163.20	(1,263.60)
Assistant Shift Supervisor	21.85	4.31	26.16	28.69	5.66	34.35	8.19	17,035.20	(1,419.60)
Shift Supervisor	25.11	4.95	30.06	31.63	6.24	37.87	7.81	16,244.80	(1,353.73)
Unit Manager	25.11	4.95	30.06	30.13	5.94	35.07	6.01	12,500.80	(1,041.73)

For qualifying employees on staff prior to December 21, 2021, compensation for those positions will be the greater of the new TDOD Entry Wage for that job classification, as set forth in Appendix G, or 15% increase to current salary rate.

Appendix J

KY 2/28/22
SLC 3/2/2022

The State will utilize contracted forensic accounting services to review this information to confirm that the Salary Increase Per Diem is being utilized consistent with the chart above for each qualifying position/employee. The State, in its sole discretion, shall deduct from each monthly payment any Salary Per Diem amounts being used to fund vacant positions or anything other than the Allowable Hourly Increase for filled qualifying staff positions. The Contractor shall reimburse the State for the cost of utilizing contracted forensic accounting services.

2. Contract Attachment Appendix J attached hereto is added as a new attachment.

3. Contract Section C.3.c. is deleted in its entirety and replaced with the following:

C.3.c. Reimbursement to The Contractor for providing security services for inpatient care as required by Section A.3.c.10.G.10., shall be at the following rates:

Year 1 – July 1, 2021 – Feb. 28, 2022	\$25.34 per officer/ per hour
Year 1 – March 1, 2022 - June 30, 2022	\$33.72 per officer/per hour
Year 2 – July 1, 2022 – Feb 30, 2023	\$34.66 per officer/ per hour
Year 3 – July 1, 2023 – June 30, 2024	\$35.63 per officer/ per hour
Year 4 – July 1, 2024 – June 30, 2025	\$36.63 per officer/ per hour
Year 5 – July 1, 2025 – June 30, 2026	\$37.66 per officer/ per hour

4. Contract Section C.3.d is deleted in its entirety and replaced with the following:

C.3.d. When reimbursement to The Contractor for labor incurred for inmate transportation or security services for inpatient care is required by Section A.3.c.10.G.10, such reimbursement shall be at the following rates:

Year 1 – July 1, 2021 – February 28, 2022	\$25.34 per officer/ per hour
Year 1 – March 1, 2022- June 30, 2022	\$33.72 per officer/per hour
Year 2 – July 1, 2022 – June 30, 2023	\$34.66 per officer/ per hour
Year 3 – July 1, 2023 – June 30, 2024	\$35.63 per officer/ per hour
Year 4 – July 1, 2024 – June 30, 2025	\$36.63 per officer/ per hour
Year 5 – July 1, 2025 – June 30, 2026	\$37.66 per officer/ per hour

Plus expenses and mileage determined in accordance with the rules set forth in the State Comprehensive Travel Regulations.

5. Contract Section C.3.d.a. is deleted in its entirety and replaced with the following as c.3.e:

C.3.e. With the State's written approval, The Contractor may designate in writing an entity to receive payment on its behalf.

6. Contract Section C.3.d.b. is deleted in its entirety and replaced with the following as c.3.f

C.3.f. The State will calculate and compensate the Contractor for KPMs achieved for the previous twelve (12) month period pursuant to Section A.7. and Appendix G on an annual basis if earned and achieved. Earned credits from the KPMs will be applied once each year against assessed Liquidated Damages.

7. The following language is removed from Appendix D Liquidated Damages Schedule in its entirety: For staff vacancies, the actual daily salary of the vacant positions per days the position is vacant more than forty-five (45) days until the position is filled.

KY 2/28/22
SLC 3/2/2022

And replaced with the following: For staff vacancies, the actual daily salary of the vacant positions excluding the Allowable Hourly Increase per Section C.3.b(5) per days the position is vacant more than forty-five (45) days until the position is filled. Contractor shall be credited for overtime hours worked at the overtime salary rate excluding the Allowable Hourly Increase.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective February 1, 2022. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME: Hartsville/Trousdale County Government

Stephen Chambers 2-1-2022
SIGNATURE DATE

Stephen Chambers, Mayor
PRINTED NAME AND TITLE OF SIGNATORY (above) .

TENNESSEE DEPARTMENT OF CORRECTION:

Lisa Helton 2-2-2022
LISA HELTON, INTERIM COMMISSIONER DATE

32904-20283 Trousdale County Amendment 1 – Correctional Officer Series Raise

**AMENDMENT TWO
OF CONTRACT 71295**

This Amendment is made and entered by and between the State of Tennessee, Tennessee Department of Correction, hereinafter referred to as the "State" and Trousdale County, hereinafter referred to as the "Contractor." For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Section A.4.e is deleted in its entirety and replaced with the following, effective November 1, 2022:

A.4.e Staffing Pattern/Security Post Assignment

- 1) Contractor shall provide sufficient staff to ensure the appropriate supervision of Inmates and operation and maintenance of the Facility at all times and at a minimum shall abide by and fulfill the Staffing Pattern in Appendix H or required by the State.
- 2) At a minimum, Contractor shall abide by and fulfill the security Post Assignment schedule approved by the State in writing which details by day and shift the security positions and hours of work. Said security Post Assignment schedule shall include designation of critical posts. The Contractor shall submit Post Orders and a security Post Assignment roster for the prior written approval of the State. Absent an institution emergency or other unforeseeable contingency ("Institution Emergency" shall include hospital runs, suicide watch, and other instances of unforeseen events deemed to qualify by the Contract Monitor in writing), Contractor shall provide coverage of all critical posts in accordance with the approved schedule, except that the Contractor shall have a three-hour grace period to fill critical posts. However, in the event of an Institution Emergency with written approval by the State as provided below, Contractor may be permitted to vacate critical posts, without incurring any penalty or liquidated damages, provided: 1) The facility notifies the Contract Monitor within one hour that a critical post is being vacated due to an Institution Emergency; 2) the facility documents the nature of the Institution Emergency, including the name and TOMIS number of any inmate(s) involved in the emergency and the vacancy notification on the affected shift roster; 3) the facility's justification for any documented vacant critical post is discussed at the next occurring weekly meeting between the Warden and Contract Monitor and approval of the critical post vacancy is reflected in the meeting minutes.
- 3) If the State determines at any time that the Staffing Pattern and/or security Post Assignment schedule is inadequate, the Contractor agrees to place additional employees at the Facility and/or revise and implement the State's requested revisions to its Staffing Pattern and security Post Assignment. If Contractor is required to increase staff, it may request an adjustment in the Per Diem Rate pursuant to Section C.10.
- 4) Any revisions to the Staffing Pattern and/or security Post Assignment require the prior written approval of the State. Contractor shall submit monthly staffing reports on or before the fifth (5th) of each month describing for the preceding month whether and to what extent Contractor has complied with the Staffing Pattern, security Post Assignment, and monthly Post Assignment. Staffing Patterns are determined by security and program requirements and associated workloads. If changed circumstances modify those requirements or workloads the Contractor and/or the State will review those changed circumstances and a formal review will determine any changes in staffing requirements at the sole discretion of the State. If the Contractor is required to increase staff, it may request an adjustment in the Per Diem Rate pursuant to Sections C.10. and E.3

2. Contract Section C.3.b is deleted in its entirety and replaced with the following, effective November 1, 2022:

b Operating Per Diem Payments.

The State shall make Operating Per Diem Rate payments to The Contractor based on the number of Inmates actually at the Facility.

The operating per diem rate shall be recalculated at the beginning of each Fiscal Year during the term of the contract and any renewal periods. On each July 1, the operating per diem shall be increased by an inflator rate of 3.5%; provided, however, the operating per diem rate shall remain the same and not be increased if the percent change in the Consumer Price Index (CPI) (all cities/ all services) in the immediately preceding Fiscal Year was 0% or less; however, regardless of the CPI such inflator rate adjustment of 3.5% shall be granted for any fiscal year within the term of the contract and any renewal periods should the state employee workforce receive a general cost of living increase.

- (1) The State may change the number of State Bed Days that the Contractor makes available to it from time to time by giving the Contractor 180 days advance written notice of the change. The State may lower or raise the State Bed Days in its sole discretion, for any reason or no reason including, but not limited to, the State's dissatisfaction with any management subcontract. Notwithstanding any provisions herein to the contrary, The Contractor shall make available to the State all or part of the Facility's capacity upon notice described herein and shall enter into no agreement to the contrary.
- (2) Any beds not required to be made available to the State by this Contract may be filled with Inmates from other jurisdictions. Such Inmates shall be kept completely separate in all assignments including, but not limited to, housing and programming assignments. The Contractor shall notify the Commissioner and the Senate State Local Government and House State Government Committees of the source and nature of inmates from other jurisdictions proposed to be housed at the facility. Said notice shall be provided at least 30 days prior to receipt of such inmates at the institution. Within ten (10) days of receipt of such notice, the Commissioner shall notify the Contractor of any objection to the proposal. If the Contractor decides to proceed with the housing of such inmates at the Facility over such objection it shall so notify the Commissioner prior to receipt of the inmates. The State shall have thirty (30) days from receipt of such notice to change, at its discretion, the number of State Bed Days that The Contractor makes available to it. The State shall provide at least ten (10) days notice of the change in State Bed Days. The notice requirement is an exception to the 180-day notice required by **Section C.3.b.1 above**.
- (3) No Operating Per Diem will be paid for Inmates housed and treated at a State Facility if the State is responsible for the costs of such treatment. Subject to the subsection (a) above, the Operating Per Diem Rate payment will be made only for Inmates actually incarcerated at the Facility, except the Operating Per Diem Rate payment shall be made for any Inmate hospitalized at a non-State or State Facility during the period when the contractor is responsible for said hospitalization expense. No Operating Per Diem shall be paid for any Inmate out on court order except as provided in **Section A.3.c.10.X.8**.
- (4) Inmate Days and billings will be determined by the Midnight count of each day, which count shall be periodically reviewed and signed by the Liaison(s). The Contractor shall reimburse the State for the cost of utilizing contracted forensic accounting services for auditing/review of information submitted by Contractor related to staffing and payments.

7/1/22 KM JM
10/31/22 11/1/22 11/15/22

Service Description	7/1/21- 6/30/22	7/1/22- 6/30/22	10/1/22- 6/30/23	7/1/23- 6/30/24	7/1/24- 6/30/25	7/1/25- 6/30/26
Operating Per Diem Per Felon Per Day	\$70.47	\$72.93	\$76.55*	\$79.10*	\$81.74*	\$84.48*
Salary Increase Per Diem Per Felon Per Day	\$3.62	\$3.62				

* This amount includes the \$3.62 Salary Increase Per Diem. The contracted Forensic Accountant will verify that this amount continues to solely be utilized to fund security staff wage increases as detailed in Appendix J.

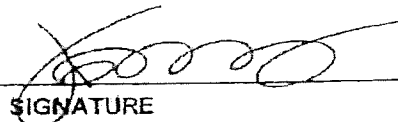
3. Contract Appendix D Liquidated Damages Schedule is deleted in its entirety and replaced with the revised Appendix D Liquidated Damages Schedule attached hereto, effective November 1, 2022.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective on the dates provided herein. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

TROUSDALE COUNTY GOVERNMENT:



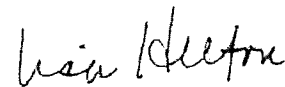
October 11, 2022

DATE

Jack McCall, Mayor

PRINTED NAME AND TITLE OF SIGNATORY (above)

TENNESSEE DEPARTMENT OF CORRECTION:



11-1-2022

DATE

LISA HELTON, INTERIM COMMISSIONER

Appendix D Liquidated Damages
Schedule

TTCC LIQUIDATED DAMAGES SCHEDULE

Contract Reference	LIQUIDATED DAMAGES EVENT (i.e., the Contractor's failure to meet a requirement under the Contract.)	LIQUIDATED DAMAGES COST PER CALENDAR DAY
Audit Instrument Items and Section E.10.	The State may elect to assess Liquidated Damages pursuant to Section E.10.b. for a finding of noncompliance on any item specified in a TDOC audit instrument used to monitor contract compliance, as may be revised. All such audit instruments are included in the contract as Appendix I.	<p>For staff vacancies, the Daily Salary and Benefits¹ of the vacant positions per days the position is vacant more than forty-five (45) days until the position is filled. Contractor shall be credited for overtime hours worked to cover security posts at the overtime salary rate.</p> <p>Except in the event of an Institution Emergency for which a critical post vacancy is excused in accordance with Section A.4.e., failure to fill critical posts may result in the following assessments:</p> <p>0-3 hours - No assessment</p> <p>More than a three (3) hour vacancy will be charged the current correctional officer hourly wage to include benefits multiplied by the number of hours vacant</p> <p>For all other events, \$300.00 per day per audit instrument group as set out below.</p>

¹ Daily Salary and Benefits is calculated as follows: Entry Hourly Wage X (1 + Average Facility Benefit Rate) X
2080 ÷ 365.

Audit Instrument Groupings:

1. Security (I – VI, Electronic Security & Maintenance, Security Equipment, Searches, Special Management Inmates, Counts, Use of Force, Disciplinary, Drug Testing, Grievances)
2. Health Services I – V (Medical)
3. Behavioral Health Services I, II (Behavioral Health)
4. Treatment (1 & 2, Jobs, Classification, Release Procedures)
5. Administration (I, III, V, VI, VII, Policies, Records & Reports, Staffing)
6. Food Services (Food Services)
7. Safety and Physical Plant I, II, II (Safety, Facility Property)
8. Property (Personal Property, Clothing Sanitation Hygiene)